

INTERNATIONAL LAW AND RELATED  
SUBJECTS FROM THE POINT OF VIEW  
OF THE AMERICAN CONTINENT

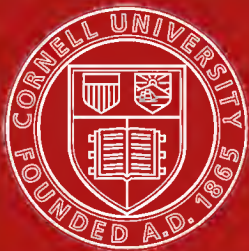
A Report on Lectures delivered in the Universities  
of the United States, 1916-1918

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ALEJANDRO ALVAREZ

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CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE  
DIVISION OF INTERNATIONAL LAW  
PAMPHLET NO. 48



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# INTERNATIONAL LAW AND RELATED SUBJECTS FROM THE POINT OF VIEW OF THE AMERICAN CONTINENT

A Report on Lectures delivered in the Universities of the United States, 1916-1918, under the auspices of the Carnegie Endowment for International Peace, including a Comparative Study of the Universities of Latin America and the United States

BY

ALEJANDRO ALVAREZ

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Law, Member of the Institute of International Law,  
One of the Founder-Directors of the Institut  
des Hautes Etudes Internationales

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CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE

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## PREFACE

The Division of International Law of the Carnegie Endowment for International Peace publishes in the following pages an abridgment of the lectures delivered by Dr. Alejandro Alvarez, the distinguished Chilean author and publicist, in the course of two tours to some of the leading universities of the United States of America in the academic years 1916-17 and 1917-18, accompanied with a report by Dr. Alvarez, including a comparative study of the universities of the United States and Latin America.

The development and increase of fruitful ideas on the subject of arbitration and international law, especially through the teaching of the subject in universities, colleges and law schools, was expressly made a part of the work of the Division of International Law by the Trustees of the Endowment at their annual meeting on December 14, 1911. A survey was immediately made by the Division and a report on the status of the subject in American institutions of learning was published in 1912. Before acting upon its findings, the Division thought it advisable to refer this report to some outside competent body, and at the suggestion of the Endowment a Conference of Teachers of International Law was held in Washington in April, 1914, in connection with the annual meeting of the American Society of International Law, to consider the position and steps for the future development of the study of the subject. Forty-one colleges and universities were represented in the Conference, which adopted a series of resolutions and recommendations.

Among the resolutions adopted by the Conference of Teachers was the following:

*Resolved*, That, in order further to increase the facilities for the study of international law, the Conference recommends that steps be taken to extend the study of that subject by increasing the number of schools at which courses in international law are given, by increasing the number of students in attendance upon the courses, and by diffusing a knowledge of its principles in the community at large, and, more particularly:

(a) That, as the idea of direct government by the people grows, it becomes increasingly essential to the well-being of the world that the leaders of opinion in each community be familiar

with the rights and obligations of states, with respect to one another, as recognized in international law. Hence, it has become a patriotic duty, resting upon our educational institutions, to give as thorough and as extensive courses as possible in this subject.

(b) That a course in international law, where possible, should consist of systematic instruction extending over at least a full academic year, divided between international law and diplomacy.

(c) That prominent experts in international law be invited from time to time to lecture upon the subject at the several institutions.

The invitation to Dr. Alvarez followed pursuant to the recommendation contained in the above resolution "that prominent experts in international law be invited from time to time to lecture upon the subject at the several institutions."

It is regretted that the entry of the United States into the war during the course of Dr. Alvarez's second tour has prevented the earlier publication of his lectures and interrupted the continuation of the plan of visiting lecturers, of whom Dr. Alvarez was the first.

The success which attended the lectures of Dr. Alvarez shows the practicability of and the need for such work of international enlightenment, and it is the hope of the Director of the Division of International Law that conditions will be favorable to a renewal of the plan in the not distant future.

JAMES BROWN SCOTT,  
*Director of the Division of International Law.*

WASHINGTON, D. C.  
*August 1, 1922.*

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**PART I**

**INTRODUCTION: SUMMARY REPORT  
OF TOURS**



# INTRODUCTION

## SUMMARY REPORT OF TOURS

### I

The Division of International Law of the Carnegie Endowment for International Peace, of which Dr. James Brown Scott is Director, entrusted me with the mission of delivering during the academic years 1916-17 and 1917-18, in the principal universities of the United States, a series of lectures on international law.

It was the first time that such a mission had been entrusted to a Latin American; prior to my appointment two European publicists of world-wide repute had been invited but were unable to accept. The honor was all the greater for me since the period during which the lectures took place marks a new era in the history of mankind. The whole world had undergone an upheaval as a result of the Great War; a transformation had begun in every branch of human activity, particularly in economic, political and international life.

It was my mission to show the universities of the United States that they ought to join in close cooperation with those of Latin America for the purpose of studying the social transformations which were about to take place and their necessary consequence—the reconstruction of the political and social sciences—and to indicate, as far as possible, the basis of this reconstruction.

I was to treat especially the problem of the reconstruction of the society of nations and of international law, dwelling upon its American continental aspect and pointing out the useful purpose to be subserved by setting it out in relief in future.

My task was a delicate, indeed a difficult, one, given the scope, the complexity, and the difficulty of the subject. The differences between the universities of the United States and those of Latin America, not only in their organization but also from the point of view of their teachings, their tendencies, and therefore of the diversity of mentality, of intellectual outlook and spiritual attitude, which is the logical consequence, made my undertaking still more arduous. The United States has received the impress of

the English cast of mind, while the intellect of Latin America has undergone the influence of Europe, especially of France.

It was necessary to surmount these differences and to treat the subject as a whole from a point of view where there might be general agreement, and to seek the points of contact and such uniformity of view and doctrine as may exist between the two groups of countries of the New World as a result of their geographical situation, their environment, and the manner in which they developed during the nineteenth century. It was therefore necessary to take into account the differences between the states of America, as well as their points in common, if useful results were to be accomplished.

## II

By reason of the auspices under which I was lecturing and as a Latin American who had devoted himself to the study of the international problems of our continent, I was received everywhere with extreme courtesy. The presidents of the universities introduced me to the students and some of them went so far as to receive me as their guest in their homes and gave entertainments in my honor. The deans of the schools of law and political science, the professors of political science and international law, the students' and professors' clubs, the clubs devoting themselves to the study of the social sciences, and the Spanish clubs, also received me with gracious hospitality. The students, for their part, showed their interest in my lectures, as did the university and the local press, which reproduced passages from them and published interviews with me on Latin America and the Great War.

I shall cherish all my life the memory of the kindly welcome accorded me by all these persons and scientific institutions; I am deeply grateful to them, and it is my duty, not to say my pleasure, to give public expression to my sentiments in this report.

I also owe a debt of gratitude to the Executive Committee of the Carnegie Endowment, particularly to the Director of its Division of International Law, Dr. Scott, for the confidence with which they have honored me by giving me an opportunity to come into contact with and to observe at close range the intellectual element of the great northern Republic.

## III

During my first lecture tour (1916-17) I visited thirteen of the great universities of the Eastern states: Princeton, Columbia, Pennsylvania, Yale, Harvard, Louisiana, Tulane, Washington (St. Louis), Chicago, Northwestern University (Chicago), Wisconsin, Michigan, Cornell.

Up to that time the United States and Latin America had believed that their interests and those of civilization would be best subserved by keeping out of the great conflict that was desolating the Old World. In their judgment that conflict should remain a purely European one, but public opinion in all the states of America did not conceal its sympathy with the Allies, and the governments of the New World observed toward them a benevolent neutrality.

The grave and repeated violations of international law by Germany, her disregard for the rights of neutrals, especially those of the great Republic, the danger of German supremacy over the entire world in case she should be victorious, had irritated and alarmed the New World. All felt that the conflict was no longer merely European but that it was becoming world-wide. The students in the United States who up to that time had felt no hatred toward any country began to have the conviction that it was becoming necessary to take up arms in order to ensure the future safety of their country and of mankind.

During my second tour (1917-18) I visited fifteen of the great universities of the Middle and Far West: Pittsburgh, Ohio, Oberlin College, Indiana, Illinois, Minnesota, Iowa, Nebraska, Colorado, Washington, Oregon, California, Leland Stanford, Southern California, Texas.

I then had an opportunity to witness how these young men, hitherto trained only for scientific labors, abandoned their studies and flew to arms to join in a war three thousand miles away, which had reduced the continent of Europe to a welter of blood. They did so for the defense of their native land as well as of the soil of two nations that were their traditional friends, particularly France, to which their country was bound by ties of special gratitude. They also desired to ensure the triumph and practical realization of the ideals proclaimed by the United States

when they entered the war: the establishment on solid foundations of a society of nations that would bring about the reign of peace and justice among all the states of the world.

My first duty, which I fulfilled with joy and emotion before these young men who had already donned the military uniform, was to assure them that in the great struggle Latin America was on the side of the Allies, whom she regarded as the champions of right and justice; on the side of the United States, for the violation of their rights by Germany was at the same time a menace to its future security and to the security and liberty of the whole American continent; on the side of France, to whom in these days of sore trial Latin America remained fondly attached, deeply devoted, and eternally grateful.

I added that if all the countries of the New World had not declared war or severed diplomatic relations with Germany, it was solely because they did not believe they had legal grounds for doing so. This was not perhaps the attitude they should have assumed; their neutrality was merely an apparent neutrality, since they took no part in the war; but it was not a legal neutrality, which implies respect on the part of belligerents for the rights of neutrals—above all, that of freedom of commerce—rights which were disregarded by Germany in her submarine campaign.

I also said that the nations of the New World should remain united in the presence of danger and assert their solidarity for their common defense. An attack upon one of them should be considered an attack upon all, against which all should stand ready to make common cause. This was the most serious crisis for the nations of America since the years when they were winning their independence, and imposed upon them the most pressing duties of national defense.

Finally, I concluded, aside from safeguarding its independence, our continent had other missions: to facilitate the establishment of peace, as well as to study and prepare the basis for the future reconstruction of the society of nations and of the law by which it should be governed, by clearly manifesting the will of New World democracy. The present was a solemn moment: we must not allow history and future generations to call to account the

states of America for what they had done or neglected to do when civilization was in danger and the destinies of the continent at stake.

The applause which greeted my words was the best proof of the faith of the students in and their enthusiasm for a cause which was at one and the same time national, continental, and world-wide.

#### IV

As to the number of lectures, the dates on which they were delivered, and the size of the audience, I would refer the reader to the following summary:

Princeton University, two lectures, on November 21 and 22, 1916.

Columbia University, one lecture, on November 23, 1916.

University of Pennsylvania, three lectures, on November 27, 28 and 29, 1916.

Yale University, two lectures, on December 7 and 9, 1916.

Harvard University, three lectures, on December 12, 13 and 14, 1916.

Louisiana State University, three lectures, on February 12, 13 and 14, 1917.

Tulane University, three lectures, on February 15, 16 and 17, 1917.

Washington University, St. Louis, three lectures, on February 28, March 1 and 2, 1917.

University of Chicago, three lectures, on March 6, 7 and 8, 1917.

Northwestern University, one lecture, on March 9, 1917.

University of Wisconsin, three lectures, during week of March 12 to 17, 1917.

University of Michigan, three lectures, during the week of March 19 to 24, 1917.

Cornell University, three lectures, during period of March 26 to 30, 1917.

University of Pittsburgh: Two lectures were delivered before 150 students on November 15 and 16, 1917. An additional address was made in the auditorium of the university before 600

students on the 15th, and a second extra address was delivered on the 16th before 30 professors at a meeting of the Association of the Eastern Universities.

Ohio State University: Three lectures were delivered at this university on November 21, 22 and 23, 1917, before an audience of about 100, including students and professors of the university and members of the faculty. A special lecture was delivered before the students in the course on commercial policy.

Oberlin College: Lectures were delivered at this university on November 26, 27 and 28, 1917, before about 100 students and professors. A special lecture was delivered before the students in international law.

Indiana University: Four lectures in all were given at this institution on December 5 and 6, 1917, two being given before classes in political science and international law, one in the university auditorium at a reception tendered to me by the Scientific Club, the Political Science Club, and the Cosmopolitan Club, and the fourth before students on economic policy.

University of Illinois: A series of three lectures was delivered on December 10, 12 and 14, 1917. Addresses were also made before the Cosmopolitan Club on December 13 and the University Club during the same week. I also made a speech at the reception given in my honor by the Spanish Club.

University of Minnesota: I spent the Christmas holiday season in Chicago, and resumed my tour at the University of Minnesota during the week of January 7, 1918. Two lectures were delivered on January 8, and a third on January 9, before audiences of about 300 students and professors. A fourth address was delivered before the Faculty Club of the university.

University of Iowa: At this institution three lectures were delivered before large audiences composed of students and professors on January 16, 17, and 18, 1918. A fourth lecture was delivered before the Research Club composed of university professors and a fifth one before the primary school.

University of Nebraska: A series of three lectures beginning on January 22 was delivered at the State University, including the law students, the commerce students, and a convocation of the students and faculty.

University of Kansas: Owing to the fact that my tour took me through Kansas during the period when the University of Kansas was holding its examinations, it is regretted that it was not practicable for me to lecture at this university.

University of Colorado: Two lectures were delivered at the University of Colorado, one on February 4 before the University Scientific Association, and the second on February 5 before the university students. Both lectures were well attended by professors and students.

University of Washington: A course of three lectures was delivered on February 11, 13, and 15 before all-university assemblies. In addition to the three lectures, three additional speeches were delivered, one before the College Club, the second before the Faculty Club, and the third before the Chamber of Commerce and Commercial Club which was attended by 300 members, including the delegates in attendance upon the Northwest Merchants' Convention.

University of Oregon: Three lectures were delivered before students and professors at this university on February 19; on the following day a third lecture was given before a university assembly in the presence of more than 600 students and professors.

University of California: Lectures were delivered before audiences composed of students and professors on February 25, February 28 and March 1, 1918. The last lecture was delivered before an assembly of about 3,000 students. I also delivered a speech at a reception given in my honor by the Spanish Club of the university.

Leland Stanford Junior University: Lectures were delivered at this institution on March 4, 6 and 8 before well attended audiences composed of students of history and law, professors, and the interested public. I also delivered a speech in Spanish at a reception given in my honor by the Spanish Club.

University of Southern California: During the week of March 11, 1918, I delivered six lectures and made three speeches in the course of my visit at the University of Southern California. On the mornings of March 12, 13 and 14 I lectured in the College of Liberal Arts before the President of the University, the Dean of the College, the faculty and about 250 students in economics,

sociology and political science. On the afternoon of the same days, I lectured in the College of Law before the Dean, professors and about 100 law students. My speeches were delivered before the Celtic Club, the Spanish Club and the Historical Club, the latter of which gave a reception in my honor.

University of Texas: Three lectures were delivered at this university on March 21, 22 and 23 before audiences composed of professors and students. I also delivered one lecture in Spanish.

## V

To meet the desire so often expressed by professors at the universities which I had the honor to visit I am preparing to publish these lectures in expanded and up-to-date form, in a volume to be entitled *The New International Law*. This will enable me in a manner partially to discharge the debt of gratitude which I have incurred toward them.

In the second part of the present report, however, I am including a sketch of the principal subjects I have treated in these lectures, namely:

1. The Rôle and Influence of the American Continent in the Reconstruction of International Law.
2. The Duty of the Universities of our Continent to Collaborate in the Reconstruction of the Political and Social Sciences.
3. Necessity of Unifying the Anglo-American and the Latin-American Schools of International Law and of Creating a Pan-American School.
4. The New Monroe Doctrine and American Public Law.

In the third part I am profiting by my knowledge of Latin-American universities and those of the United States to make a comparative study of the two university systems, in order to determine the basis upon which a useful cooperation can be established between these two groups of universities.

**PART II**  
**THE LECTURES**



## CHAPTER I

### THE RÔLE AND INFLUENCE OF THE AMERICAN CONTINENT IN THE RECONSTRUCTION OF INTERNATIONAL LAW

#### I

The present era is the darkest and most critical through which civilization has ever had to pass. To-day everything is in a state of discussion or of reconstruction, and no one can predict what the society of to-morrow will be like. We should not be surprised at this. History teaches us that after every great war profound changes take place in the institutions of countries, in their international relations and even in their philosophical and political ideas and doctrines.

Nobody can foretell yet what changes will take place in the future life of European society, and its necessary reaction upon American countries, and, consequently, what changes will result in the social and political sciences which relate to that social life. What can, of course, be predicted is that they will be no less radical than those produced after each social catastrophe, especially after the French Revolution. In the beginning such changes are not perceived by the public at large; but it is the duty of scientific men to study them from their very beginnings.

In this great social catastrophe, the most terrible in the history of humanity, the United States takes now the principal part. In this so critical moment for your country, it is a great satisfaction to know that your president has the moral support and entire sympathy of all the Latin-American countries. They all well understand now that the final triumph of the Central Powers would endanger their future security. All the states of Latin America agree with the United States that this war shall be continued until final triumph over Prussian militarism. Next to the period when she became independent, the present time is the most serious for America, and the one which imposes upon her the most pressing duties of national defense. This solidarity existing at the present moment between the United States and the Latin-American countries is the best proof of the community of

interest and sentiment that exists and should exist in the future between them, that is to say, it is the best proof of the existence of Pan-Americanism.

This union, this solidarity should be strengthened also in order that our continent may be able properly to fulfill the great rôle which it will be called upon to play in the future.

America as a continent is far removed from the theatre of war; during the past century she has been able to remain at peace, thanks, doubtless, to her stable and wise international organization, thanks also to the liberal and democratic spirit of all the nations which compose the New World; finally, no state of our hemisphere has any traditional or irreconcilable rivalry with Germany. These circumstances enable the New World to play an effective part in bringing about the conclusion of peace, and in striving, after the war, to do away with that division into two hostile, rival camps, which up to the present day has always separated Europe.

In addition to these duties, America has others which interest the universities more particularly, because they come directly within the scope of their studies; namely, her work in the reconstruction of international society and of the law which shall govern it.

## II

Universal public opinion to-day demands that after the war there be a reconstruction, on new and more solid foundations, of political life, economic life, and especially of international life. Public opinion is agreed that the bases upon which until to-day international society, especially European international society, has been founded, that is, individualism, balance of power, alliances, and armed peace, are most unstable and dangerous, and the cause, moreover, of the present cataclysm.

The belligerent governments themselves have declared on various occasions that the present war should be ended not only by a treaty of peace, but by a complete reorganization of international life that will assure a lasting peace in the future. Because of the very confusion in international life to-day, the period to come will be a most favorable one in which to reconstruct it.

This does not imply that we must create an entirely new organization, one whose efficacy is unknown to us, one based solely upon philosophic theories and speculations, like that which followed the French Revolution.

What we must do is to hasten the evolution which became apparent during the last half of the nineteenth century, and to direct its course in accord with the data of experience, the lessons of the present war, and the exigencies and aspirations of the present time. We must also attempt to emphasize the defects and deficiencies revealed by experience in international life and in the laws which should govern it in order that we may avoid them in any future reorganization.

### III

What is this evolution and what are these lessons? And what are the exigencies and aspirations of the present time with regard to the reconstruction of international society? We have no intention of stating these lessons in detail: we shall content ourselves now with calling attention to the fact that the evolution which has become apparent in national and international life since the middle of the nineteenth century is a gradual but constant disappearing of the régime of individualism which was bequeathed to modern society by the French Revolution, and a setting up in its place of a régime of cooperation and interdependence which results from the continuous *rapprochement* between states and from the progress of civilization.

Two facts must be especially emphasized: first, that the present war has enormously increased the rivalry and greatly emphasized the difference in culture and theory between the East and the West of Europe which became apparent during the nineteenth century, and, secondly, that together with the augmentation of this rivalry between the two groups of belligerents there has been established between the states composing them an international, economic and industrial cooperation which up to the very eve of the war would have been thought Utopian.

Experience has shown that not only is it possible to eradicate individualism entirely from contemporary life, but that as a matter of fact it has already been eradicated in all the belligerent

countries and has been replaced by cooperation. The régime of individualism is not necessary therefore, as has been believed by those who said that competition between individuals and nations, which is the direct result of individualism, is indispensable to the development of commerce; the experience of the present time shows us that it is, on the contrary, cooperation which holds the greatest advantages toward this progress, because cooperation prevents strife, promotes harmony, and avoids that loss of individual effort which prevailed under the régime of individualism. Therefore what must be done in the future, is to establish cooperation for a time of peace as it has been established to-day for a time of war.

Now a few words concerning the aspiration of humanity as regards the future construction of the society of nations.

The entrance of the United States into the war has given it a new aspect, has marked an epoch in the history of humanity. In the memorable message of President Wilson of April 2, 1917, it is stated that the United States seeks in this war neither territorial extension nor pecuniary indemnity, nor does it desire to set itself up as a judge of the claims of the belligerent states. Its principal object in entering the war, says the Government of the United States, is to serve the general interests of humanity by striving to bring it about that in the future the society of nations may rest upon solid foundations in order that a lasting peace may be assured. The basis pointed out as indispensable in attaining this end is the destruction of autocracy and of Prussian militarism. It demands also the liberty and the security of all peoples, great or small; freedom of the sea; finally, the rule of law over force in international relations. The allied governments and universal public opinion have accepted these declarations of the United States with enthusiasm, and adopted them as expressing their highest aims and ideals in this struggle.

Hence the United States has not only given larger and higher aims to the war than those given by the European nations, but the profits which she will gain therefrom will also be different from those obtained by these countries. For this reason she will attain in the future a position of prestige not attained by any other country.

This capital question of the determination of the aims of the war is not as easy as is ordinarily believed. It is very important to consider that the democracy whose establishment is the principal object of the war on the part of the Allies is not comprised in the same manner by all the peoples and governments. The conception of democracy is not only different between the Central Empires and the Allies, but is also different between the Allies themselves. In France, in England, in Italy, in Russia, and in America the conception of democracy is very different. When the time comes, that is to say, at the end of the war, and the belligerents perceive that there are different conceptions of democracy between them, it is the American conception probably that will triumph and be adopted in the future.

On the other hand, the United States will exert a great influence in the future development of the society of nations, because the United States can impose on the belligerent governments disarmament and the adoption in its place for safety of a better international organization.

We find in continental American public opinion an element of an equally disinterested nature in what concerns the future of international law. This is the work undertaken by the American Institute of International Law. This institute is a federation of the national societies of international law which exist in each of twenty-one countries of the American continent.

We claim for this American Institute the honor of having been the first to maintain, from the beginning of the war, that, as soon as the war should be ended, a reconstruction of the society of nations and of the law to govern it should be undertaken; and with this end in view it was necessary to begin at once serious studies based not upon mere theories, but upon reliable data; the experience of international life during the last century, the lessons of the present war, and the aspirations of humanity.

We claim especially for this American Institute, the honor of having three years ago proclaimed as necessary bases for the future society of nations, the same five principles proclaimed by President Wilson in his message of January 8, 1918, and accepted by the German Chancellor in his speech of the twenty-fourth of the same month.

The American Institute has also in contemplation different projects relating to the reconstruction of international law and of international society, that is to say, the rules by which this new society of nations should be governed in the future.

#### IV

At its first meeting which took place at Washington in 1916, the Institute adopted a "Declaration of the Rights and Duties of Nations" drafted by its President, Mr. James Brown Scott. The text of this Declaration <sup>1</sup> is the following:

WHEREAS the municipal law of civilized nations recognizes and protects the right to life, the right to liberty, the right to the pursuit of happiness, as added by the Declaration of Independence of the United States of America, the right to legal equality, the right to property, and the right to the enjoyment of the aforesaid rights; and

WHEREAS these fundamental rights, thus universally recognized, create a duty on the part of the peoples of all nations to observe them; and

WHEREAS, according to the political philosophy of the Declaration of Independence of the United States, and the universal practice of the American Republics, nations or governments are regarded as created by the people, deriving their just powers from the consent of the governed, and are instituted among men to promote their safety and happiness and to secure to the people the enjoyment of their fundamental rights; and

WHEREAS the nation is a moral or juristic person, the creature of law, and subordinated to law as is the natural person in political society; and

WHEREAS we deem that these fundamental rights can be stated in terms of international law and applied to the relations of the members of the society of nations, one with another, just as they have been applied in the relations of the citizens or subjects of the states forming the Society of Nations; and

WHEREAS these fundamental rights of national jurisprudence, namely, the right to life, the right to liberty, the right to the pursuit of happiness, the right to equality before the law, the right to property, and the right to the observance thereof are, when stated in terms of international law, the right of the nation to exist and to protect and to conserve its existence; the right of independence and the freedom to develop itself without interference or control from other nations; the right of equality in law and before law; the right to territory within defined boundaries and to exclusive jurisdiction therein; and the right to the observance of these fundamental rights; and

WHEREAS the rights and the duties of nations are, by virtue of membership in the society thereof, to be exercised and performed in

<sup>1</sup> *The Declaration of the Rights and Duties of Nations adopted by the American Institute of International Law* (Washington, 1916).

accordance with the exigencies of their mutual Interdependence expressed in the preamble to the Convention for the Pacific Settlement of International Disputes of the First and Second Hague Peace Conferences, recognizing the solidarity which unites the members of the society of civilized nations;

THEREFORE, THE AMERICAN INSTITUTE OF INTERNATIONAL LAW, at its first session, held in the City of Washington, in the United States of America, on the sixth day of January, 1916, adopts the following six articles, together with the commentary thereon, to be known as its

### Declaration of the Rights and Duties of Nations

I. Every nation has the right to exist, and to protect and to conserve its existence; but this right neither implies the right nor justifies the act of the state to protect itself or to conserve its existence by the commission of unlawful acts against innocent and unoffending states.

II. Every nation has the right to independence in the sense that, it has a right to the pursuit of happiness and is free to develop itself without interference or control from other states, provided that in so doing it does not interfere with or violate the rights of other states.

III. Every nation is in law and before law the equal of every other nation belonging to the society of nations, and all nations have the right to claim and, according to the Declaration of Independence of the United States, "to assume, among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them."

IV. Every nation has the right to territory within defined boundaries and to exercise exclusive jurisdiction over its territory, and all persons whether native or foreign found therein.

V. Every nation entitled to a right by the law of nations is entitled to have that right respected and protected by all other nations, for right and duty are correlative, and the right of one is the duty of all to observe.

VI. International law is at one and the same time both national and international: national in the sense that it is the law of the land and applicable as such to the decision of all questions involving its principles; international in the sense that it is the law of the society of nations and applicable as such to all questions between and among the members of the society of nations involving its principles.

At the second meeting which took place at Habana in 1917, the Institute adopted, on the President's proposal, ten recommendations known under the title of "Recommendations of Habana,"<sup>1</sup> of which the text is as follows:

WHEREAS the independent existence of civilized nations and their solidarity of interests under the conditions of modern life has resulted in a society of nations; and

<sup>1</sup> *The Recommendations of Habana concerning International Organization adopted by the American Institute of International Law at Habana, January 23, 1917. Address and Commentary by James Brown Scott. New York, 1917.*

WHEREAS the safety of nations and the welfare of their peoples depend upon the application to them of principles of law and equity in their mutual relations as members of civilized society; and

WHEREAS the law of nations can best be formulated and stated by the nations assembled for this purpose in international conferences; and

WHEREAS it is in the interest of the society of nations that international agreements be made effective by ratification and observance on all occasions, and that some agency of the society of nations be constituted to act for it during the intervals between such conferences; and

WHEREAS the principles of law and equity can best be ascertained and applied to the disputes between and among the nations by a court of justice accessible to all in the midst of the independent Powers forming the society of civilized nations;

THEREFORE the American Institute of International Law, at its second session, held in the City of Habana, in the Republic of Cuba, on the 23d day of January, 1917, adopts the following recommendations, to be known as its *Recommendations of Habana*.

I. The call of a Third Hague Conference to which every country belonging to the society of nations shall be invited and in whose proceedings every such country shall participate.

II. A stated meeting of the Hague Peace Conference which, thus meeting at regular, stated periods, will become a recommending if not a law-making body.

III. An agreement of the States forming the society of nations concerning the call and procedure of the Conference, by which that institution shall become not only internationalized, but in which no nation shall take as of right a preponderating part.

IV. The appointment of a committee, to meet at regular intervals between the Conferences, charged with the duty of procuring the ratification of the Conventions and Declarations and of calling attention to the Conventions and Declarations in order to insure their observance.

V. An understanding upon certain fundamental principles of international law, as set forth in the Declaration of the Rights and Duties of Nations adopted by the American Institute of International Law on January 6, 1916, which are themselves based upon decisions of English courts and of the Supreme Court of the United States.

VI. The creation of an international council of conciliation to consider, to discuss, and to report upon such questions of a non-justiciable character as may be submitted to such council by an agreement of the Powers for this purpose.

VII. The employment of good offices, mediation, and friendly composition for the settlement of disputes of a non-justiciable nature.

VIII. The principle of arbitration in the settlement of disputes of a non-justiciable nature; also of disputes of a justiciable nature which should be decided by a court of justice, but which have, through delay or mismanagement, assumed such political importance that the nations prefer to submit them to arbiters of their own choice rather than to judges of a permanent judicial tribunal.

IX. The negotiation of a convention creating a judicial union of the nations along the lines of the Universal Postal Union of 1906, to which all

civilized nations and self-governing dominions are parties, pledging the good faith of the contracting parties to submit their justiciable disputes—that is to say, their differences involving law or equity—to a permanent court of this union, whose decisions will bind not only the litigating nations, but also all parties to its creation.

X. The creation of an enlightened public opinion in behalf of peaceable settlement in general, and in particular in behalf of the foregoing nine propositions, in order that, if agreed to, they may be put into practice and become effective, in response to the appeal to that greatest of sanctions, “a decent respect to the opinions of mankind.”

The Secretary General of the Institute, at the second session at Habana, submitted projects which may be divided into two groups, one dealing with the organization of international society, and the other relating to the reconstruction of international law in its most fundamental conceptions.

The first project relative to this reconstruction intended to unify the opinions and doctrines of different schools and publicists upon those fundamental points of international law on which an agreement has not been reached, especially in the matter of the source of the law and its interpretation. The principal differences between the Anglo-Saxon school and the so-called Continental school in international law are for the most part upon these fundamental points. Considering the importance of these matters, a uniform point of view for all schools is necessary; and, if such an agreement cannot be arrived at, we must at least make clear the differences which the two schools present; because if diversity of rules is a disadvantage in fundamental matters, the disadvantage will be more serious and more dangerous if the diversity *exists in fact* and is not called attention to. The above-mentioned project on the “Fundamental Bases of International Law” attempts besides to correct all the initial errors and defects which experience has revealed in this law.

In the second project an attempt has been made to establish the bases for *American public law*. The propositions of the project are based upon the ideas of political life of the whole continent. The three principles originally stated in the Monroe Doctrine are here reaffirmed. In the future these principles should be promulgated as legal rules, because they represent not only the interests of the United States, as until to-day was thought to be the case, but the interests also of the whole continent. In the pro-

ject the Monroe Doctrine is developed in conformity with the necessities and the aspirations of the states of the New World.

After this war, if the states of Europe wish to seek indemnification on our continent, it will be well to recall to them that we will continue to uphold our traditional doctrine; that an attack upon a country of our hemisphere is an assault upon the foundations of our public law; and that all the other countries will unite to defend it.

All these projects are intended to unify as far as possible the ideas of all states upon these fundamental matters. They are intended especially to unify the ideas of the New World in order that the two schools of international law which now exist upon the American continent, the Anglo-Saxon and the Latin, may be fused or at least reconciled, and that a single Pan-American school may be formed. This school, because of the liberality of its doctrines, will be called upon to exercise a great influence upon the future development of international law.

## CHAPTER II

### THE DUTY OF THE UNIVERSITIES OF OUR CONTINENT TO COLLABORATE IN THE RECONSTRUCTION OF THE POLITICAL AND SOCIAL SCIENCES

#### I

The social changes which are about to take place in the life of mankind have their logical counterpart in a change in the political and social sciences relating thereto. Hence these sciences also must be reconstructed.

The universities of the American continent must take an active part in this reconstruction and unite their efforts with those of the universities of Europe. The task which they have to accomplish is of immense proportions and calls for the combined efforts of all the leaders of thought.

In order that the universities may accomplish this mission, they must undertake, in addition to the study of social changes, to correct the defects and prejudices that crept into these sciences during the last century, as well as to supply their deficiencies. One of the principal defects to be corrected is the anomaly which has dominated these sciences since the latter half of the nineteenth century due to the transition from the system of individualism to that of solidarity or interdependence. In future the course must be laid openly in accordance with the system that will be established after this war.

There is still more to be done. During the nineteenth century various circumstances, especially national interests, racial genius, tradition, geographical situation, systems of legislation, etc., caused the political and legal institutions of the different countries to remain distinct, and doctrines that might be considered universal—such as philosophical, moral, economic, and international doctrines, even the conception of law itself, as well as the various manifestations of culture (the medical sciences, history, education, liberal arts, etc.)—although fundamentally uniform, presented varying aspects in three different groups of countries: (a) in France and other Latin countries, namely, Italy, Spain, and the states of Latin America; (b) in England and the United States;

(c) in Germany, Austria Hungary, and the Slav countries. Thus when it is a question of medicine, of education, or of painting, we find a Latin, or rather a French, school, an Anglo-Saxon school, and a Germanic school. This is likewise the case as regards science in general: there is a Germanic, a French, and an Anglo-Saxon culture.

This distinction has been aggravated by the diversity of methods of research employed in the study of the sciences, for the conclusions arrived at have differed according to the method pursued. These methods, simultaneously or successively followed in all countries were: the deductive, the metaphysical or *a priori*, the inductive or method of observation, sometimes called the historical, the biological method, the psychological method, the sociological, and the theological method.

These divers doctrines and conceptions must be duly studied and brought out in relief, in order that we may discover on what points they agree and on what points, on the contrary, their divergences are irreconcilable.

## II

Another, perhaps the principal, defect in the political and social sciences which must be remedied in future is what might be called a lack of Americanization, that is to say, these sciences do not take into consideration the theories and social conditions that exist in the New World.

The American continent has been duly studied in the realm of the natural sciences—ethnography, sociology, botany, geography, mineralogy,—but nothing of the kind has been done in the domain of the political and social sciences. The general belief is that these sciences are universal in character and that, except in certain details, there can be no differences as between the European and the American continents. This, however, is not the fact.

From the beginning of the last century the American continent, by reason of its geographical situation and the manner in which its nations came into being, has developed under conditions different from those of Europe. In many constitutional, administrative, international, economic, and social questions the New World has its own point of view which is different from that pre-

vailing in Europe. There are, moreover, problems *sui generis*, which are unknown or manifest themselves under a different aspect in the Old World.

All the political sciences have, alongside of their group peculiarities to which we have previously alluded, an American continental side hitherto overlooked in the Old World. And what is still more serious, we Americans imbued with the European spirit have neglected to study our own theories and problems, indeed, our peculiar situation in general, as is manifest above all in the field of constitutional law, political economy, and international law.

### III

In the field of constitutional law the conceptions of Europe and those of the countries of America differ in many respects. This is easily explained when we bear in mind that the states of the New World acquired their independent existence in a sudden manner as a protest against the colonial system and the political institutions of their mother country. In private legislation the new states adopted the institutions of Europe—the United States those of England, Latin America those of France—but in political organization they desired and were able to construct a brand new edifice, inspired by the political theories which they esteemed the best suited to their purpose. In no quarter of the globe were the political theories of the English philosophers of the seventeenth century and those of the French of the eighteenth put into practical operation to the extent in which they were on the American continent.

The conception of the state, of democracy, of the sovereignty of the people, of the rights of the individual, of the separation of powers, of the representative system, of centralization, and of decentralization, is different from the conception that prevails in Europe.

In Europe the state is the incarnation of power and the functions of the government are not strictly limited in character. In the New World governments are the direct creations of the popular will. It is a principle recognized in all American constitutions that the government has no powers except those expressly conferred upon it by law.

Of democracy it may be said that it is indeed government of the people, by the people, and for the people. In the New World it is essentially republican, liberal, and based upon equality and universal suffrage; but parliamentarianism is not of its essence. We cannot conceive of a democracy apart from the republic, and we understand the other characteristics of democracy, which we have just indicated, in a much broader sense than they do in Europe.

Individual guaranties also are conceived differently in the Old and in the New World. In America they are unlimited in character and their object is to place a check upon the government. In Europe these guaranties are always accompanied by restrictions more or less important, particularly in the matter of freedom of association. The new continent is much more individualistic than the old.

It is consequently quite evident that there exists an American constitutional law, taking this term in its broadest sense so as to include all the countries of the New World. Therefore, as a logical consequence, there is also an American political science and an American political philosophy which have not, up to the present time, been duly set out in relief.

But there is still another very important distinction to be drawn.

In certain matters, such as the system of representation, the parliamentary system, the communal system, the attributes and responsibilities of the government, the states of Latin America have either undergone the influence of European theories, especially French theories, or they are eclectic, that is to say, a mixture of French theories and institutions with those of the United States. In other matters, such as the constitutional system, the federal system, the conception of liberty and of equality, universal suffrage, electoral law, the rôle of the state in public instruction, all the states of Latin America have ideas peculiar to themselves and quite different from those that prevail in the United States and Europe.

As regards the conception of a constitution, whereas the Latin-American states attempt to settle every question in their constitutions, which thus become veritable codes, in order to strengthen

the political system which they have established; such is not the preoccupation of the states of Europe, which leave to custom a great part of the functioning of their political institutions. Moreover, the Latin-American states have devised a number of checks to reform the constitutional laws; this has not been done in Europe.

The federalism of Latin America is very different from that of the United States and of the countries of Europe. In reality it is nothing more than a decentralization due to the vast extent of these countries as well as being an imitation of the United States. In the countries with a federal organization—Mexico, Colombia, Venezuela, Argentina, and Brazil—all the fundamental institutions and legislation are derived from the central power. The attributes of the states are, we emphatically repeat, nothing more than those belonging to the local administration in decentralized countries.

It is worthy of remark that three of the four characteristics of democracy in the New World are understood in a broader sense in Latin America than they are in the United States: equality, liberty, and universal suffrage.

Latin Americans give to liberty an extremely broad meaning. Any limitations of the rights of individuals sanctioned by the constitution seem to them unwarranted. A great many liberties have been proclaimed in these countries before they have been promulgated in Europe, such as the freedom of the slaves, freedom of assembly and association, etc. Indeed, public opinion believes that hygienic measures, measures of international security, for example, the expulsion of anarchists, are not very much in accord with the rights of individuals. A law such as that which now exists in the United States prohibiting the sale of alcohol would never be adopted in an Hispano-American state. These states are therefore much more individualistic than the United States and the latter is more individualistic than the states of Europe, with the exception, perhaps, of England.

In the matter of equality the Latin-American states make no distinction between the national and the foreigner in the enjoyment of civil rights; there is also equality between citizens. There are no privileges, even the least. Contrary to European custom,

foreigners are admitted everywhere, in the liberal professions, in professorships, as directors of societies or associations, and in certain countries they may even be elected municipal councilors.

Universal suffrage is understood in a very broad sense; nothing further is required of a voter or a candidate for office than the ability to read and write. In many of the Latin-American constitutions women have long since been granted the right of suffrage.

Free instruction in all grades is a fifth characteristic of democracy in the Latin-American states. There is no such thing in Europe or in the United States, at least to the same extent. In Chile, for example, any person may, without spending a cent, begin his education and continue it in state institutions until he secures a professional degree. This free instruction has been criticized as excessive and even as anti-democratic, since the state pays the cost out of the public funds; but what must be chiefly borne in mind is the desire that education be spread among all the inhabitants of the country in order that all may be prepared to perform the duties of the highest offices.

Finally, let me point out that the social forces which exist in the Latin-American countries—social classes, legislation, political parties, the army, the press—and which exert a direct influence upon the political institutions are of a wholly different nature from those that prevail in the countries of Europe.

From the foregoing observations it follows that there is, alongside of an American constitutional law, a Latin-American constitutional law, political science, and political philosophy, which must be brought out into the light of day.

This American and Latin-American side of constitutional law and political science has been almost wholly neglected.

In Europe the political institutions of the United States have become known, albeit in a very incomplete manner, through the works of the great thinkers—Hamilton, Jefferson, Madison, and especially the Federalist. In 1835 de Tocqueville, who visited the great Republic, wrote his famous book, *Democracy in America*. Subsequent to that time there existed in France, in the days of Louis Philippe and under the Second Republic, a school of con-

stitutional law known as the American school. The two leaders of that school—de Tocqueville first <sup>1</sup> and afterwards Laboulaye <sup>2</sup>—desired a constitutional reform in France inspired not by *a priori* deductions, but based upon experience and especially upon the constitution of the United States. Since that time the study of the constitutional law of the great Republic has been practically neglected in Europe.<sup>3</sup>

In the United States two notable works have appeared and very complete courses are given in the universities on the political institutions and theories of that country.<sup>4</sup>

But what has not heretofore been done is to set out clearly in relief American and Latin-American continental political theories and institutions. The aim should be to compare the former with the theories and institutions of Europe and the Latin with those of Europe and of the United States, in order to discover upon what points they are in agreement and upon what points, in spite of appearances, there are divergences.

#### IV

This lack of Americanization exists also in the economic field. It is generally considered that these subjects are universal in character and that certain of them have "national" characteristics. Never has anyone attempted to discover whether there are matters or questions of a "continental" character.

Imbued with this belief, many of the countries of Latin America have accepted and put into operation—for example in the matter of free trade and of paper money—European theories and institutions which, because they are not applicable to the conditions in these countries, produced results contrary to those sought.

Hence there is an "American continental political economy" and a "national political economy" peculiar to each of the countries of America, to which it is necessary to devote special attention.

<sup>1</sup> Alexis De Tocqueville, *Democracy in America*.

<sup>2</sup> Edouard Laboulaye, *Considérations sur la Constitution de 1848*.

<sup>3</sup> The most noteworthy work is that of James Bryce, *The American Commonwealth*. Cf. A. Esmein, *Éléments de droit constitutionnel français et comparé*.

<sup>4</sup> On the political theories of the United States, see C. E. Merriam, *A History of American Political Theories*.

But it is above all in the domain of international law that the conditions peculiar to the American continent have not been studied. It has always been considered that international law is by its very nature universal, and to talk about an international law for American questions was regarded as an absurdity. As in the case of political economy, this science has been studied from a "universal" or "national" point of view, but, barring exceptions, it has never been studied from a "continental" point of view.<sup>1</sup>

These American characteristics exist also in other branches of the political sciences, in philosophy,<sup>2</sup> and even in literature.<sup>3</sup> It may therefore be said that there are not only institutions, problems, and theories that are American in character, but that there is also an American cast of thought, an American and a Latin-American mentality.

## V

The duty of the American universities, as we have said, is above all to "Americanize" the political and social sciences, which heretofore have possessed only European characteristics, and these universities alone can take the initiative in this matter.

This Americanization will be of the greatest scientific and practical importance. It will bring clearly to light the fact that universal conditions are rare, that absolute principles do not exist in the political sciences, and that even those institutions which seem to be of that character—the conception of liberty and of sovereignty, for example—are understood differently on the two continents.

Let me point out, in this connection, that conditions on the American continent lend themselves much more readily to generalization or study as a whole in the aforesaid sciences than do those of the continent of Europe.

<sup>1</sup>On this question see A. Alvarez, *Le droit international américain* (Paris, 1910).

<sup>2</sup>James in the United States and Ingenieros in Latin America (Argentina). The latest work of the latter, *Proposiciones relativas al porvenir de la filosofía* (Buenos Aires, 1918), shows great originality of thought.

<sup>3</sup>Sarmiento (Argentina) with *Facundo*; Graça Aranha (Brazil) with *Canaan*; Blest y Gana (Chile) with *El ideal de un calavera*; Isaac (Colombia) with *Maria*; Rodó (Uruguay) with *Ariel*; Ricardo Palma (Peru), and Blanco-Fombona (Venezuela), are among the most representative authors of Latin America as regards a literature that is purely Latin-American in character.

Europe has been in existence for a number of centuries; the peoples inhabiting it are not the same in origin, they have not developed along the same lines, they have not the same culture or the same problems. They have no common aspiration; they have no conception of what may be called continental solidarity. It may be said that Europe has had a political existence only since 1815.

It has been almost the very opposite in America. There are only two groups of countries; the Anglo-Saxons to the north, the Latins to the south. Both have passed directly from a colonial government to a democratic republic. Their political institutions are therefore not rooted in tradition, but rather inspired by theory. In the countries of the Latin-American group solidarity is due to the fact that they have a common origin and helped one another in winning their independence. They also underwent the same moral, geographical, and material influences, and they all have the same needs and the same problems.

In recent years the intellectual centres of the New World have endeavored to remedy the lack of Americanization in the political and social sciences.

The governing board of the First Pan American Scientific Congress, which took place at Santiago de Chile in 1907, decided, on our motion, that all the discussions concerning the said sciences should be solely from the American point of view; and the detailed program of subjects connected with each of these sciences, which we had the honor to prepare, attempts to bring out all their American aspects.

The Second Pan American Scientific Congress, which took place at Washington in December, 1916, was also in favor of having these subjects treated from the American point of view and as at the first congress, many papers of real value were presented.<sup>1</sup>

<sup>1</sup> See J. B. Scott, *Second Pan American Scientific Congress, The Final Act and Interpretative Commentary Thereon* (Washington, 1916). Cf. the opening address of the chairman of the Subsection on Public Law, Mr. Simeon E. Baldwin, in *Proceedings of the Second Pan American Scientific Congress* (Washington, 1917), vol. vii, p. 279.

## CHAPTER III

### THE NECESSITY OF UNIFYING THE ANGLO-AMERICAN AND LATIN-AMERICAN SCHOOLS OF INTERNATIONAL LAW AND OF CREATING A PAN-AMERICAN SCHOOL

#### I

I will now in this lecture explain the duties of the American university in the work of reconstructing international law. I refer to the uniformity of conception and of doctrine with respect to this law, which must come into existence in America, and to the most effectual means of bringing this about, namely, uniformity in the method of its study.

America has had, and still possesses, in international matters, a uniform doctrine on a great many subjects pertaining to the interests of civilization in general or that of our continent, a logical consequence of the fact that all the countries of the New World have passed through the same struggle for independence and have had practically the same interests and the same problems.

But on a great many questions, particularly those that do not relate to the interests of our continent, the countries of the New World have continued to feel the influence of the traditional international theories of their mother countries from which they have received their scientific culture. Thus, the United States has followed English theories, and the Latin-American countries so-called continental theories, especially French theories.

From an international point of view our situation is, therefore, one that is peculiar to the Western World. On the one hand, there are the liberal theories of continental scope—held by all the American countries; but, on the other hand, and as a result of the influence of European science, the countries of our continent find themselves divided into two very different schools, with striking individual characteristics, the Anglo-Saxon and the continental or Latin-American school.

In the seventeenth century, when international law became a science, its field of action was dominated by three rival schools—

the metaphysical or philosophical, the historical or positive, and the eclectic.

These different schools remained in existence throughout the nineteenth century, but they were not so conspicuous then as they once were. Nevertheless the publicists of the last century found themselves divided by various factors, such as national interests, the body of private laws, and the dominant philosophical systems, into six distinct schools—the English, the North American, the German, the Italian, the French, and the Latin-American.

Under the influence of certain circumstances, chief among them the ever-increasing contact of the countries, the differences between these schools have in recent years become less marked; but two schools, with distinctive characteristics, differing in their methods of study and in the theories which they hold, still remain—the Anglo-North American and the Franco-Latin-American.

Certain of the differences between the Anglo-North American and the Franco-Latin-American schools are fundamental, others of a national character, and still others proceed from the method adopted in the study of international law.

The fundamental differences in these schools are two in number and are the result of the kind of legal education given in the respective countries. The one relates to the sources from which the rules of law are derived and the manner in which they are established, especially as regards the weight to be attached to judicial precedents. The other concerns the place held by international law in the legislation of each state; for, while it is part of the law of the land in the United States, such, with a few exceptions, is not the case in the countries of Latin America. These fundamental differences are not irreconcilable, for they can be eliminated, especially by means of a uniform method in the study of international law.

The differences of a national character, which are by no means unimportant, are the most difficult to reconcile, because they proceed from the national interests of the respective countries. Examples of these differences concern the diplomatic claims, the protection of citizens abroad, etc.

The differences that are the result of divergent method of study are also numerous, but they can be eliminated by the adoption of a method satisfactory to both schools and in harmony with the requirements of modern international life.

The method followed by each of the two American schools has advantages and drawbacks.

The Anglo-American derives its theories from practice, especially from national practice, as administered by the courts of justice. Consequently it may be called the positive school. It has, however, this defect, that its study is only of its own doctrine and does not consider the doctrines of the other schools or countries, but neglects them. Moreover it lacks the elements necessary for the criticism of rules of law, and national jurisprudence is the principal instrumentality for the interpretation and development of the law when its provisions are inadequate. It is therefore too individualistic—that is to say, it is too attached to its own particular cases—and wants those general constructive theories and that comprehensive outlook on every question which are indispensable for a complete knowledge of the subject.

The method of the Latin-American school is practically the very opposite. It possesses the broad general outlines that are wanting in the Anglo-American school, but it has the following defect: its outlook and constructive theories do not proceed strictly from the practice of nations, but rather from the legal philosophy that is dominant among them and from the spirit of private law. Writers not infrequently set forth as prevailing rules what are nothing more than their personal opinions. The study of particular cases is only of secondary importance.

The foregoing comparison is sufficient in itself to show that in future it will be necessary to reconcile these two schools by reconciling the two methods of study of international law, both of which have advantages and drawbacks, not, however, by means of arbitrary or economic combinations or compromises, which would be unacceptable either to you, Anglo-Saxons, or to us, Latin-Americans, but by some practical means.

Let us now consider what this new method of study might be—a method that must be capable, if not of blending the two schools of our hemisphere, at least of drawing them more closely together

and of giving international law the direction required by the needs of the present day.

## II

One of the main defects in the study of international law in the Anglo-American and Latin-American schools is the belief that international relations are regulated only by juridical rules. And what is worse, and more dangerous, the universal opinion to-day is that in the future international life should be regulated only by juridical rules. Experience shows us that international relations do not always appear now to be regulated in the same manner. Sometimes they are regulated only by the main principles of humanity or morality, for example, in the case of slavery, in certain rules of war, etc. In other cases the matter is regulated only by juridical rules, as, for example, neutrality. Other matters are regulated only by what is called the politics of the state, inspired principally by national and narrow interests. It is important to notice that the more vital international questions rest in the field of politics and not in that of law, for example, territorial expansion, and all matters known as imperialistic. Other matters are regulated at the same time by juridical rules and by politics, for example, the protection of citizens abroad. And, finally, there are other matters regulated only by what is called *comitas gentium*, or courtesy between nations, such as extradition, and all matters comprised in the expression of private international law.

The Latin-American school is studying international relations, disregarding these main divisions. For this school all the relations between states should be governed by juridical rules. This school lays aside international politics and when it takes them into consideration does so in order to criticise them in accordance with juridical rules. The Anglo-Saxon school, particularly in the United States, takes politics into consideration, but it makes of them a special science unrelated to international law.

In the future it will be necessary to find a new conception or system of international law which can regulate all international relations, and not as to-day, regulating only a few. And if it is impossible to find this new conception it will be necessary in the future to study international relations in such a way that the great divisions which we have indicated may appear with clear-

ness, and to show distinctly in each of these divisions how international relations are regulated.

### III

The fundamental error in the study of international law in both schools is the belief that its rules are universal in character.

A careful study of international life brings to light the fact that of the existing rules some are of *universal*, others of *continental* application. Moreover, there are some that are merely the rules of this *school* or that, and others that are simply of a *national* character.

This premise, which is irrefutable, gives us the key to the existing method of study. In the consideration of any question, it must be made known and clearly set forth whether it is governed by universal rules or by rules applicable to a specific continent or rules of school or country. This will be apparent from the will of the states.

I desire especially to emphasize the importance of having continental rules alongside of universal rules.

In international life there are four distinct continental societies—the European, the American, the Asiatic, and the African. Although these societies are closely related to each other, and although the African is simply a colonial outgrowth of the European group, it is none the less true that these various continents must be considered separately, because there are essential differences between them, and each of them has distinctive, characteristic features. The European and the American continents have developed along different lines, and each of them has situations, theories, and problems pertaining to international matters that are peculiar to it alone.

The Asiatic continent has in recent years developed characteristics of its own as regards matters in which it is directly interested. Japan, who is at the head of these movements and whose desire it is to assume the hegemony, is proclaiming certain special principles—indeed, a sort of Monroe Doctrine—applicable to that continent.

In *continental international law* we must distinguish what may be called the *public law of the continent* from other continental

rules that are not of this nature. Rules that relate to the political organization of the continent and conventions or agreements, concluded by all or nearly all of the countries of the continent, relating to this fundamental matter are rules of public law.

In so far as *American public international law* is concerned it is contained in the three declarations of President Monroe—to maintain independence, no colonization, and no intervention of European powers in American countries. These principles synthesize the views of all the American states, not those of the United States alone, as has been erroneously believed.

As to the public international law of Europe, its existence has long been recognized, in the present war especially, by several declarations made by the English Government; for instance, in the declaration contained in the message of the King of England to Parliament, September 18, 1914; in the declarations of the Prime Minister, Mr. Asquith, at Edinburgh on the same day, and at the Guild Hall, London, on November 9 of that year; in the resolutions adopted at the Guild Hall on September 4, 1914; and, in the message of the King of England of January 27, 1916.

Finally, in the present war it is manifestly apparent that even the rules which until the present time were held to be universal in reality are not so. Thus, for example, in regard to the question of neutrality, certain rules to which all the nations pledged themselves and which were therefore considered to be of a universal character, could not find application on our continent. We can therefore say that certain matters regarding neutrality have a distinctly American point of view.

In conclusion, international law in the future will be considered not only a science for the study of a body of laws of a universal character, as in the continental, and especially in the Latin-American school; not of a body of laws looking to exclusive and narrow national interests, as in the Anglo-Saxon school; but a science to show international relations as they really are, in order to establish good relations between the states, to reconcile their national interests, and to develop the spirit of solidarity, that peace may be assured in future. International law in the future will realize the beautiful maxim "Above all nations is humanity." To this end, it is necessary to adopt a new method in the study of inter-

national law. This method consists in investigating, in each matter, to see whether it is a universal rule, or only a continental rule, or the rule of a specific school or of a certain nation.

In case the rules are continental or merely those of a school or nation, it is necessary to make a comparison between these doctrines in order to discover the reason for the differences. This comparison is especially instructive on our continent between the Anglo-American and the Latin-American schools, in order to investigate if it is possible to make the doctrine uniform or to point out that there are irrevocable differences, in which case the divergent opinions must be respected.

This study will not only lead to a more intimate good understanding between the two groups of states, but bring forth an American continental school, which, through its conception of the state and of international society, as well as through the elements from which it draws its inspiration in the matter of legal regulation, will exert great influence on the future development of both continental and world-wide international law.

## CHAPTER IV

### THE NEW MONROE DOCTRINE AND AMERICAN PUBLIC LAW

I have the honor to undertake an explanation of a subject of capital importance at the present moment : the Monroe Doctrine. I will discuss this Doctrine from the Latin-American point of view, an aspect of the subject which will shed a new light upon the true character of the Doctrine. The Monroe Doctrine is not, as generally believed (especially in this country), a personal policy of the United States, but an American international rule, professed and accepted by all the states of the New World.

#### I

Let us now go back to Latin-American international life in the early days of independence, to discover what rights were proclaimed by the states, which may be considered as forming part of the basis of American public law.

After their liberation, the states of Latin America feared that not only the mother country, but any one of the powerful European states, might make attempts against their independence or at least against their political life. This fear was not without foundation, in view of the fact that in 1815 the Emperors of Russia and of Austria, and the King of Prussia had signed the pact known as the "Holy Alliance" by which these sovereigns mutually guaranteed the integrity of their territories, as well as legitimate governments. Spain had sought the help of these sovereigns to put down the revolt of her American colonies, but it had been refused, and from 1818 to 1822 there had been interventions at Naples, in the Piedmont, and in Spain, with a view to putting on the throne legitimate sovereigns, who had been dethroned by the popular uprising. Consequently the American states feared for their independence, or at any rate for the form of their government.

Then as always, by force of circumstances, the statesmen of all the American countries, without previous agreement among themselves, held that the right of independence had been won and no

attempts could be made against it; that the states of Europe could not colonize any country of the New World, not even unexplored regions which were not under the authority of any of the respective American states; and that the European states should not intervene in the domestic politics of the new countries. Such views were expressed in Venezuela, particularly by Bolívar,<sup>1</sup> in Rio de la Plata, Chile, and even in Central America.<sup>2</sup>

## II

In 1823, the year following the recognition of some of the Latin-American states by the United States and a time when the latter foresaw the perils of another conquest of these countries or of intervention in their domestic politics, President Monroe, in his famous message of December 2, stated in unambiguous terms the same principles that had earlier been declared by the statesmen of Latin America. Therefore, even if the famous message had never been written, the ideas contained in its first three declarations would none the less have been maintained by the states of the New World. In this sense, it may be said that the Monroe Doctrine is not a doctrine of a single nation, nor the special invention of Monroe. It is an "American continental doctrine." But it will continue to be the Monroe Doctrine in the sense that American continental aspirations are therein collected and condensed in doctrinal form. In this way, all America has acquired a creed for its foreign policy, and the United States has become the defender thereof whenever it is threatened. When the Monroe Doctrine was proclaimed the states of Latin America formally adhered to it.

By 1824 President Monroe's message became known in nearly all the countries of Latin America and received the formal support of the governments of those countries as well as of public opinion therein, as stated in President Adams' message to Congress in 1826. Four countries gave particular consideration to these declarations and asked the United States to see to it that they were respected: Colombia, Brazil, Argentina (United Provinces of the Rio de la Plata), and Mexico.

<sup>1</sup> See José Gil Fortoul, *Historia constitucional de Venezuela*, vol. i (Berlin, 1907), p. 272.

<sup>2</sup> See Alejandro Marure, *Bosquejo histórico de las Revoluciones de Centro-América*, vol. i, p. 77.

In 1824 Colombia, fearing that France might lend its aid to Spain, which had conceived the design of reconquering its former colonies, proposed to the Washington Government the conclusion of a treaty of alliance, requesting that government at the same time to define the scope of the Monroe Doctrine. Secretary of State Adams in his communication of April 26 of the same year stated that the fear of intervention by the Holy Alliance in the countries of the New World had disappeared to a great extent, and that, besides, the American Government needed the consent of Congress in every case where it was necessary to enforce respect for the Monroe Doctrine.

In this same year, 1824, Brazil too, fearing subjugation by its mother country, proposed a treaty of offensive and defensive alliance with the United States, to which the other states of America would later be invited to subscribe. The American Government refused, saying that it did not believe such a pact was necessary. The following year the Government of Brazil formally recognized the Monroe Doctrine.

In 1826 war broke out between Brazil and the United Provinces of the Rio de la Plata regarding the title to the strip of territory to the east, now called Uruguay. Rivadavia, President of these Provinces, called upon the Washington Government to apply the Monroe Doctrine on the ground of the close ties that existed between Brazil and Portugal, a European country. In 1828 Secretary of State Clay, in reply to the inquiries of the Buenos Aires Government, stated that the United States did not consider itself bound to intervene in defense of the Monroe Doctrine every time that it was requested to do so by the countries interested and that in order to intervene the previous consent of Congress was necessary in every instance.

As regards Mexico, Secretary of State Clay in 1825 sent instructions to his representative in that country, informing him that in the message of 1823 certain important principles of "inter-continental law in the relations of Europe and America" were asserted.

In 1822 Bolivar, the great liberator, conceived the idea of uniting all the states of Latin America in a "union, league, and perpetual confederation"; and in 1824, while President of Peru, he

invited the governments of the said countries to attend a congress at Panama. The Government of the United States also was invited, as the congress contemplated proclaiming the Monroe Doctrine. It met in 1826, but was attended only by the representatives of Mexico, Central America, Colombia, and Peru. Among other instruments, a pact of "union, league, and perpetual confederation" was signed, confirming the principles proclaimed by Monroe in 1823.

From the precedents of the Panama Congress it follows that it was more to the interest of the Latin countries than to that of the United States to make common proclamation of the Monroe Doctrine. In the instructions which the American Government gave its delegates to the said congress, it informed them that the united declaration of the Monroe Doctrine contemplated by the Latin states was not to have a jointly responsible character, but that each country would bind itself individually not to permit within its boundaries the establishment of new European colonies, such a declaration on the part of each state being deemed sufficient to attain the desired result. Bolivar's idea was of much broader scope, namely, to form a confederation of all the Latin states of the New World for the common defense of their independence and liberty by joining with the United States for that purpose.

After 1826 the Latin states of America made known their formal adhesion to the principles of the Monroe Doctrine on various occasions, especially at the international congresses which met at Lima in 1848 and 1864, and at Santiago de Chile in 1856. At these congresses, as well as in the pacts there signed, the new republics gave expression to the idea which had prevailed among them since their liberation: to consider themselves as one family of nations, united for the purpose of defending their independence and of preventing foreign states from oppressing or obstructing their destiny.

### III

There is, however, a great deal of confusion regarding this Doctrine, owing to the fact that the attitude of Latin America on the subject is not sufficiently known.

I shall not here undertake a complete examination of the Doctrine, nor shall I attempt a criticism of the opinions that have been expressed since its proclamation. This subject has been explained in remarkable works, especially in the recent book of the learned professor at Harvard University, Mr. Albert Bushnell Hart, "The Monroe Doctrine—An Interpretation."

What I particularly want to do is to consider it from the point of view of Latin America, for I believe that if the attitude of these countries on the Doctrine were known, a great many of the misunderstandings that exist to-day would be dissipated, and the character and rôle of this Doctrine in American international law would be accurately determined.

In this connection, I shall take up the following points :

1. The continental phase of the Doctrine.
2. The distinction to be drawn between the Monroe Doctrine and its applications and development, on the one hand, and the policy of supremacy or hegemony and imperialism of the United States, on the other.
3. Whether the principles constituting the Monroe Doctrine as formulated in 1823 are a part of what may be called American continental international law.
4. Whether the states of the New World have the right to proclaim certain principles as belonging to continental international law.

#### IV

I need not read President Monroe's message of 1823, as it is well known. It contains two series of provisions very different in character.

The first series is made up of special declarations relating to the non-intervention of the United States in European affairs.

We shall consider only the principles contained in the second series, which relates to the political independence of the New World and includes the three principles of the acquired rights to independence, to non-intervention, and to non-colonization on the American continent.

The message stated that attempts of the countries of Europe against the American republics are dangerous to the peace and

security of the United States. This would seem to indicate that Monroe was declaring these principles with the interests of his country only in view, and that is why this Doctrine is considered merely a policy of the United States. But the fact is lost sight of that the assertion of such principles is also favorable to the entire continent, and that the statesmen of Latin America had maintained these same principles before 1823 and have persevered in this idea in the course of the nineteenth century and on several occasions invoked the Monroe Doctrine, particularly in 1865 when Spain and Peru were at war.

In 1910, at the Fourth Pan American Conference, when the centenary of Latin-American independence was celebrated, the delegation of Brazil proposed to the delegations of the Argentine and of Chile that the Conference be asked to adopt a vote of thanks to the United States for the beneficial effects of the Monroe Doctrine on the independence of the New World. The resolution was not passed, lest it should give the impression that the Latin states by approving the Monroe Doctrine likewise approved the supremacy or hegemony of the United States in the American continent. The idea of upholding the Monroe Doctrine throughout the continent is one of present interest. According to accounts appearing in a press which claims to be well informed, President Wilson has submitted to the various American governments a proposed treaty, the first article of which declares that the "high contracting parties agree to unite in a common and mutual guaranty of territorial integrity under the republican form of government." And the National Association of International Law of Chile, among divers propositions submitted to the Institute for approval, included one for the "mutual guaranty of the independence and territorial integrity of the American states against aggression on the part of the states of other continents."

So far as concerns the *maintenance of respect* for the Doctrine by the states of Europe, it is the United States that has undertaken this task for the past century, a task which naturally fell to it as being the most powerful of the American countries; and that is another reason why the Monroe Doctrine is believed, especially in the United States, to be only a policy of this country.

But the Latin states have also come forward in its defense. In 1865 Chile declared war on Spain simply to safeguard the independence of Peru, which was threatened by Spain.

Another reason why there exists such a misunderstanding concerning the Monroe Doctrine is because people have attempted to hang upon it all the policies of the United States. There is not an act of this country, especially in its intercourse with Latin America, that is not looked upon as being bound up with this Doctrine, in spite of the fact that the latter originally referred to no other principles than the three already pointed out. During the nineteenth century the United States built up alongside of this Doctrine a *personal policy*, which does not represent the interests of the continent, but quite the reverse; wherefore it inspires fear rather than sympathy in the states of Latin America. This so-called policy of supremacy or hegemony consists in intervention by the United States, on behalf of its own interests, in the domestic affairs of certain states of Latin America, especially those that are situated in or near the Caribbean Sea and those bordering the Gulf of Mexico. This policy is the well-nigh natural result of the tremendous territorial, economic and maritime superiority of the United States. Any other country in the same situation would have developed the same, perhaps a still more aggressive, policy. The European Concert is really nothing more nor less than a hegemony of the great powers over the rest of Europe.

The states of Latin America have always rejected this doctrine of the hegemony of the United States in the name of the independence and the liberty of the states.<sup>1</sup>

In addition to this policy, the United States has developed in our hemisphere the so-called imperialistic policy, by which they have increased their territory and brought certain countries under their influence.

<sup>1</sup> In a recent notable work entitled *The Caribbean Interests of the United States* (New York, 1916), a distinguished professor of the University of Wisconsin, Dr. Chester Lloyd Jones, has demonstrated the increasing importance of the United States in the social, economic and political development of the countries of the Caribbean Sea. The United States, he shows, is the dominant factor in its trade, in its naval interests, and must there stand as the representative of American political ideas in contrast to those of Europe. This is a development we must regard as natural.

## V

Consequently the policy of the United States on the American continent may be divided into three main groups or categories:

1. Maintenance, application and development of the Monroe Doctrine, or doctrine of all the states of the New World.
2. Political supremacy or hegemony (personal).
3. Political imperialism (personal).

I shall confine myself here to a statement of the principal cases in which each of these policies has been applied.

*Maintenance, application and development of the Monroe Doctrine*

The United States has prevented European states from bringing American countries under their domination (for instance French intervention in Mexico from 1862 to 1866), and from meddling in American affairs. It has also developed the Monroe Doctrine by opposing the acquisition by European states, on any grounds whatever, even with the consent of the American countries, of any portion of the territory of the latter and the placing of any portion of such territory under the protectorate of a foreign power; for instance, the statement made by President Polk in his message of April 29, 1848, with regard to Yucatan, and the declaration made by the United States in 1895 respecting Nicaragua's intention to cede to England, as damages for the imprisonment of an English vice consul, the island of Corn, to be used as a coaling station.

The United States also opposed the more or less permanent occupation by a European state, even as a result of war, of any portion of American territory, as instanced by President Van Buren's declaration in 1840 that the United States would prevent by force the military occupation of Cuba by England, and President Roosevelt's declaration on the occasion of the Anglo-Italo-German coercive action against Venezuela in 1903.

From the ideas of all the American states, which are synthesized in the Monroe Doctrine of 1823, with the later manifestation we have indicated, it follows that the American continent conceives the right of independence and of liberty in an entirely different light from that in which it is viewed in Europe. The

differences between the two continents in this respect are three in number :

1) In Europe every nationality is not constituted as an independent state.

2) All states do not enjoy full and complete independence. Some are semi-sovereign; others are neutralized without consulting their will.

3) An independent state may lose its independence in whole or in part; either by its own voluntary act or as the result of war.

In America things are done otherwise. In the first place, all nationalities are constituted as independent states, with the exception of Canada and the other European colonies, which have not considered it advisable to exercise this right, so fully recognized in our hemisphere.

The American states are also absolutely and definitively independent with regard to Europe. They are not semi-sovereign or neutralized states. Their sovereignty may no longer be placed under a limitation to the benefit of a European country. But they may lose or cede a portion, more or less extensive, of their territory to an American state, or voluntarily limit their sovereignty in the matter of their foreign relations, as in the cases of Cuba and Panama; but they cannot alienate entirely their independence.

Some statesmen have, however, manifested a desire that the American states mutually guarantee their territory, thus rendering it inviolable, not only with respect to Europe, but also as regards the states of the American continent. As we said before, President Wilson recently submitted to the various American governments a proposed agreement, the first article of which states that "the high contracting parties agree to unite in a common and mutual guaranty of territorial integrity under the republican form of government."

## VI

### *Policy of hegemony*

1. The United States has on various occasions contended that European states may not, without its consent, transfer to one another, on any ground whatever, the colonies which they possess

in the New World. A case in point is Clay's declaration in 1825 to the Governments of France and England to the effect that the Union would not permit Spain to transfer Cuba and Porto Rico to other European states.

2. The policy followed with respect to Cuba from the beginning of the nineteenth century, while it was a colony. In regard to this policy, it is worth noting the declaration which was made in 1870, that the United States would look with disapproval upon Spain's contracting loans, with the revenue coming from Cuba as a guaranty, Cuba being one of her colonies at the time.<sup>1</sup>

3. Another phase of the hegemony of the United States is that of intervening at the birth of a new state in America, either by emancipation or by secession, and then restricting its foreign relations, as in the cases of Cuba and of Panama.

With regard to Cuba, Article 3 of the appendix to its constitution expressly recognized that the United States has the right to intervene in the country, not only to defend its independence, but also to preserve order. The object of this was to keep the island from passing through crises like those through which the Latin-American countries passed in the early days of their independence, and to have from the very beginning an era of peace, not only for the good of the island and of the continent, but also for the security of the interests of the United States.

Cuba, evacuated by the United States in 1902, concluded with that country, on May 23, 1903, a perpetual treaty, which considerably restricted its independence. Among other stipulations, the United States is authorized to defend the independence of Cuba, which cannot conclude with any other state a treaty that may compromise its independence. The United States also reserves the right to have naval stations on the island.

With regard to Panama, there was, in the first place, the Hay-Bunau Varilla treaty of November 18, 1903, between the United States and Panama, providing that, in consideration of the payment of ten million dollars and a certain annual rental, the United States should acquire a strip of land in the territory of Panama, extending five miles from the median line of the proposed canal, on each side, and three miles into each ocean. The canal was

<sup>1</sup> J. B. Moore, *A Digest of International Law*, vol. vi, pp. 456-57.

thus to pass through American territory. Panama ceded to the United States sovereignty over the islands situated within the limits of the indicated zone and other islands situated in the Bay of Panama. However the cities of Panama and Colon and the adjacent ports were not included in the cession. The canal and its entrances are to be perpetually neutral, in accordance with the conditions of the treaty of November 18, 1901, between England and the United States. The latter country guarantees the independence of Panama.

The negotiations concerning the Panama Canal and the independence of Panama plainly show to what lengths the United States policy of hegemony may go. In the first place, just as in the case of Cuba, while allowing Panama to be self-governing, the United States retains a sort of surveillance over it in order the better to maintain its independence and to preserve order within the country.

Article 136 of the constitution of Panama confers upon the United States authority to intervene for the purpose of restoring order, in case it assumes, by virtue of a treaty, the obligation of guaranteeing the independence or the sovereignty of the Republic.

In connection with this phase of the policy of the United States to intervene at the founding of every new state in America, let us remember that in 1867, at the time of the constitution of Canada, many protests arose in the Congress of the United States against the formation of this political entity, which really was a European state. Although these protests came to naught, the fact is none the less worth noting, because it shows the scope that certain politicians would like to give to the United States' policy of hegemony.

4. A fourth manifestation of this policy is to be seen in the intervention of the United States in the foreign affairs of certain Latin-American states. The two most conspicuous cases were its intervention in 1895 in the dispute between Venezuela and England regarding the boundary of Guiana, and the other we mentioned a little while ago—the Anglo-Italo-German intervention in Venezuela in 1903. In the first case, the Congress of the United States adopted on January 10, 1895, a resolution inviting the two parties to look with favor upon a proposal that they resort to arbitration.

5. The fifth phase of the policy of hegemony is to be found in the intervention in the domestic affairs of certain states in cases of insurrection, particularly in Cuba in 1906. This case is known in diplomatic history as the second intervention.

6. The sixth manifestation of the policy of hegemony is the exclusive control that the United States wishes to exercise over any interoceanic canal in America, especially the Panama Canal and the proposed canal through Nicaragua.

7. The policy proclaimed by President Roosevelt of bringing pressure to bear on the Latin countries that fail duly to discharge their international obligations, particularly those of a pecuniary nature, is another manifestation of this policy of hegemony.

8. Finally, the eighth class of hegemony is the control exercised by the United States in the economic international situation of certain countries to which it has lent money to pay their creditors and to improve their finances. This situation is provided by treaty between the United States and the countries concerned, the Dominican Republic and Nicaragua.

The recent agreement between Japan and the United States concerning China shows, for many persons, a new manifestation of hegemony. By this accord the United States recognizes that the contiguity of territory in China gives Japan special interest in China. Some people are apt to think that for the same reason the United States should have a special interest in Mexico. It is very important to note that the argument is not acceptable to us. Perhaps the special interest due to contiguity of territory is a good rule of policy in the Asiatic continent, but it could not be applied in our continent. Its application will arouse unnecessary suspicion and cause misunderstanding on the part of Latin-American countries towards the United States. Such a policy should therefore never be approved.

## VII

### *Policy of imperialism*

So far as regards the third category of the policy of the United States on the American continent, the so-called policy of imperialism, the United States has obtained its various acquisitions or increases of territory, both on the American continent and else-

where, by peaceable means, such as purchase, or by war or the use of force. At the very beginning of its independence the United States started its policy of territorial extension. The ability with which it proceeded with the help of such favorable circumstances as the absence of powerful neighbors, has enabled it to build up the gigantic federal state that it is to-day.

We have said that the policy of hegemony and the imperialistic policy do not represent the interests of the American continent. The Latin-American states do not accept these policies, but on the other hand they do not condemn them, or at least not in all their manifestations.

In these last years, and especially during the administration of President Wilson, the United States has practiced the policy of hegemony and imperialism with great moderation and circumspection. This course has augmented the confidence of Latin-American countries in the United States, and has removed all obstacles to complete friendship and intimate cooperation between the Latin-American republics and this country.

Recently its statesmen have declared explicitly that the United States wants no further increase of territory, especially at the expense of American states; that all it desires is to develop its commerce and its business and friendship with these countries. A majestic idea this, if, as is to be hoped, it is sincere, by which the United States would show the imperialistic powers of Europe that prestige and material wealth and power are to be acquired, not through armed oppression of weaker states nor through crafty acquisition of their territory, but through the more human but no less effective influence of peaceful, economic development, which creates bonds of genuine friendship and sympathy.

## VIII

We may sum up the preceding study concerning the Monroe Doctrine as follows:

First, it is necessary not to confound the Monroe Doctrine with the policy of supremacy or imperialism, as ordinarily viewed, especially in this country.

Secondly, in the Monroe Doctrine as contained in the message of 1823 it is necessary to distinguish two parts entirely different:

the declaration of President Monroe concerning the non-intervention of the United States in European affairs, and the declarations concerning the political independence of the New World. The first part only is a personal policy of the United States and was enunciated before Monroe by Washington in his farewell address to the American people. This policy the United States can abandon if it wish. The second part of the Doctrine is not a personal policy of the United States but a Doctrine professed by all states of the New World. Consequently the opinion of different statesmen and publicists of Europe that the United States will abandon the Monroe Doctrine because of her actual intervention in European affairs, is unacceptable.

Thirdly, in regard to the second part of the Monroe Doctrine or continental doctrine it is necessary to limit the Monroe Doctrine to the three principles contained in the message of 1823 and complete it by two other declarations of presidents of the United States, accepted also by the countries of Latin America. These two developments of the Monroe Doctrine are: An American state cannot cede on any ground a portion of its territory to a European state; and the European states can not occupy permanently any portion of American territory. We insist that these five principles are not only the idea of the United States as ordinarily believed, but are also the uniform conception and ideas of all the countries of this continent.

The foregoing views on the Monroe Doctrine, its real scope, and the distinction to be drawn between it, on the one hand, and the acts of hegemony and imperialism on the part of the United States, on the other, throw light on the question whether or not the Monroe Doctrine properly so called is part of *American continental international law*. There can be no doubt that it is, since we find in it all the necessary conditions of *continental international law*; that it be proclaimed and maintained by all the states of the New World and respected by those of the Old. Europe has indeed recognized it on various occasions, although some of her statesmen, conspicuous among them Bismarck, have characterized it as "international impertinence."

It has long been recognized openly by certain states, England in particular, and tacitly by others, especially in the Anglo-Italo-

German conflict with Venezuela in 1903. Moreover, it has constantly been applied in practice; and, finally, at the Hague Conference of 1899 the United States made, unchallenged, an express declaration in this sense.

The Monroe Doctrine has likewise been categorically recognized in the present war. Toward the end of October, 1914, the newspapers of Europe and of the United States stated that the German Ambassador at Washington had mentioned the possibility of German troops landing in Canada. The American press said that this declaration was contrary to the Monroe Doctrine, and on October 28 these same newspapers contained a report that the Ambassador of the German Empire had declared in an interview published in one of them that his country was of those that respected the Monroe Doctrine.

With regard to this declaration let it be remembered that the Monroe Doctrine applies to the whole continent, including Canada, although that country has no share in Pan-Americanism, which is entirely different from the Monroe Doctrine.

Finally, the five principles of what we call the new Monroe Doctrine are now affirmed by all the states of the continent and all are disposed to maintain its application in our hemisphere. In one of the projects of the American Institute of International Law the said five principles are proclaimed the basis of the *public American international law*.

## IX

The last point which must be considered in connection with the Monroe Doctrine and which is intimately connected with its legal nature is whether the states of our continent may freely proclaim such international rules as they may deem expedient.

The prevailing opinion up to very recent times, even in America, has been that a continent has no power to proclaim international rules, because such rules are by nature universal and require the consent of all the states of the world.

Lately the opinion of publicists has undergone a change. They have admitted—what is indeed true in fact—that there are American continental rules to be applied in our hemisphere when the states composing the continent have proclaimed them. These

rules apply only to our continent, but they must be respected on our continent by all the states of the world, even the European.

The American Institute of International Law has declared itself clearly in this sense. Article 2 of its constitution says that one of its objects is "to study questions of international law, particularly questions of an American character, and to endeavor to solve them, either in conformity with generally accepted principles, or by extending and developing them, or by creating new principles adapted to the special needs of the American continent."

The constitutions of all the American societies of international law contain this same provision. And the European publicists who were consulted on the matter of founding the Institute unanimously declared that the pursuit by it of these objects would mark an epoch in the evolution of international law, both universal and continental.

PART III  
THE UNIVERSITIES OF THE UNITED  
STATES AND OF LATIN AMERICA



## CHAPTER I

### ORGANIZATION OF THE UNIVERSITIES OF LATIN AMERICA

Latin America has taken as a model for preparatory and higher education the system in vogue in Occidental Europe, especially the lyceums and universities. Preparatory instruction or that involving the study of the humanities is given in the lyceums. Of these there are a great number, and they may be found not only in the large cities, but even in those of lesser importance. They are generally *official* institutions, i. e., supported by the state, where students are admitted as boarders, half boarders, and day students. Day students are those who only attend the classes and live in private homes. For these students the courses are gratuitous. The boarding and half-boarding students (the first living permanently in the college, and the latter taking their meals there during the day, and staying at home at night) pay a monthly sum which just covers the cost of their sustenance. There are also institutions for preparatory education maintained by private individuals, which in the majority of countries are supervised by the state in the sense that the students of these private institutions must be examined either by official examining boards appointed by the Council of Public Instruction or by the official universities.

Only male students are admitted to the lyceums. For women, there are special official or private colleges, some of which have a collegiate course of study of the humanities so as to enable the scholars later to take up the regular studies for a university degree, and others give only a general course of instruction for women, without aiming at any professional title or degree.

The courses in the lyceums extend generally over a period of six years, the student completing his studies therein when he reaches about his sixteenth or eighteenth year of age. From there, he may enter the university; but it is an indispensable requisite to have first the degree of Bachelor of Humanities, which is given after the student has shown that he has passed in examina-

tions on the subjects which are considered obligatory in the study of the humanities.

The Latin-American universities are not very numerous: there are one or two in the capitals of the republics and some in the most important cities. The main features of these universities, which are in a large measure similar to those of Continental Europe and differ from the Anglo-Saxon institutions, are as follows: they are generally official institutions; instruction is given gratuitously; they enjoy a large degree of autonomy; there is no "college"; scientific as well as professional courses are taught; there is no community life among the students; in practice they are not coeducational; and finally, there is an absence of all religious aspects.

While both the universities and lyceums are generally official, there are also private educational institutions which the government supervises and controls as to the validity of their examinations.

In Latin-American countries it is considered as a democratic duty of the state, which is recorded in its constitutional charter, to give preferential attention to all degrees of instruction and to afford this instruction gratuitously. The expense attached to it is provided for in the annual budget of the nation, and there is a Department of Public Instruction in charge of all matters relating thereto. The salaries of the professors are small; but these men discharge their duties more as a matter of honor, and are compelled to practice their professions in order to make a living. The gratuitousness is so absolute in some countries that a person may get his instruction from the A B C in the primary schools, up to a university degree without having to incur any expense whatsoever.

The direction of the official universities is entrusted to a "rector" who is appointed by the president of the republic, at the proposal of the members of all the faculties in council assembled, and by a Council of Public Instruction, presided over by the minister of this department, and in his absence, by the rector. The members of the Council are appointed partly by the faculties and partly by the government, and have full powers which insure great autonomy to the university. Before adopting any important resolu-

tions this body hears the opinion of the respective faculties; and when it is sought to introduce some transcendental reforms these are submitted to the government so that the latter may issue the necessary laws or decrees.

Latin-American universities like those of Continental Europe, have not the "college," which is the center of gravity of American universities. They generally embrace four great sections called "faculties," which lead to the professional career or scientific education more commonly sought: law and political sciences, medicine, pharmacy, physical sciences and mathematics, and the humanities or letters. The last-mentioned faculty is found only in certain countries, and its higher course covers mainly modern literature, history, and philosophy, paying little attention to, if not omitting altogether, the study of the dead languages such as Latin and Greek, and the Oriental languages and literature. Theological studies are pursued in the seminaries, entirely independent from the universities, although some of the latter have a faculty of theology. The faculties are composed of teaching members, who are the professors in the actual discharge of their duties, and academic members, who hold their offices for life, and the number of which is limited. When a vacancy occurs in the latter class, the successor is appointed by all of the members of the faculty where the vacancy has occurred.

Fine arts, agriculture, veterinary, dentistry, music, mining, mechanics, commerce, pedagogy, etc., are taught in special schools or institutions entirely independent of one another and of the universities, and the students of these schools are not considered university students. These institutions are under the direction of individuals who depend directly upon the Ministry of Public Instruction.

The teaching in these universities is scientific, professional.

This is true mainly in the teaching of law. In addition to the national laws, students are compelled to take up courses purely scientific in character, such as the philosophy of law, history of law, Roman law, international law, constitutional law, political economy, etc. For this reason, the latter courses are the most frequented of all, since they are attended not only by those who wish to practice the legal profession, but also by those who aspire

to a general culture or desire to enter the field of politics, diplomacy, administration, etc. Just as is the case in secondary instruction, the plan of study in the universities is borrowed from those of Europe, mainly the French. Very often the students make use of books translated from this language, or of books written in the original, which they can read easily. Due to the fact that the legislation of Latin countries is derived from the French, the commentators of the latter are consulted with preference by the students, and cited in the courts.

Another characteristic feature of the Latin-American universities is that the students always live in their homes and come there to attend the courses for which they have registered. There are none of the numberless associations and societies, or other elements for bringing the students together, which are found in the universities of the United States and which are constant means of union among the students. There are, therefore, no dormitories or clubs, restaurants or fraternities; nor are there any gymnasiums or assemblies where students may continually meet. But there are in almost all of them general students' associations, which are in reciprocal communication and meet periodically in congresses where delegates are sent from other universities, and sometimes resolutions are passed which are highly important.

To the lack of association and of a corporate sentiment in the Latin-American universities as well as to the official character of the latter, is due the fact that the students may not, either during the course of their studies or after they obtain their degrees, feel attached to their fellow students or to their universities, or take interest in the future and greater growth of their *alma mater*.

Although all the university courses are open to both sexes, in practice there are very few women who follow the study of law or medicine, and almost no one has taken up the study of engineering. On the other hand, the schools of fine arts, music, pharmacy, etc., are attended by students of both sexes and are in fact coeducational.

It is worthy of mention that in spite of the provision found in the greater part of the constitutions of Latin-American countries decreeing the Catholic to be the state's religion, official universities refrain from any religious or antireligious tendencies, and

they have no chapels, nor do any political or religious acts or demonstrations take place therein.

All the universities in Latin-American countries are well organized, and the courses taught in the principal ones compare well with the best European universities. Among them, the following are worth mentioning:

The University of Chile, the cradle of numerous intellectual men, amongst whose records we find men like the illustrious Bello, and great educators such as Barros, Arana, Letelier, and Domingo Amategui, and which can boast of having as corresponding members, or *doctors honoris causa*, eminent American and European professors, such as John Bassett Moore, Rowe, and Sheppard.

The University of Buenos Aires, under the rectorship of Rector Uballes, where the mentality of the leaders of that great Republic has been formed.

The University of La Plata, also in the Argentine Republic, which enjoys a great reputation in the continent, and tends to approach the type of universities of the United States; it was founded by the illustrious Doctor Joaquin Gonzalez, and it is now under the direction of the equally noted Doctor Rodolfo Rivarola.

The University of Brazil, under the direction of famous teachers, and attended by numerous and enthusiastic students.

The University of San Marcos in Peru, the oldest in the continent, amongst whose honorary members is Mr. Elihu Root.

And finally, those of Habana, Bogota, Montevideo, etc., many of whose professors are the pride of Latin America.

## CHAPTER II

### ORGANIZATION OF THE UNIVERSITIES OF THE UNITED STATES

#### I

The organization of instruction in the United States is entirely different from that which we have just outlined.

Secondary instruction is given in centers known as high schools, and from there students go to the universities, the number of which is exceedingly large. In the Central and Western states, these universities are largely *official*, that is to say, they are supported by the state. In the East, almost all are created by private initiative due to the munificence of some philanthropist, and donations from other persons or from old alumni. Many of these institutions have millions of dollars invested in buildings and real estate, which steadily increases in value.

The universities, especially the private ones, are completely autonomous and are under the direction of a president or chancellor, and a board of trustees; the latter being in charge mainly of the finances of the institution, while the former, who is usually a great personality, takes charge of the direction and supervision of the educational activities. The course of instruction is not gratuitous, but students must pay, although a modest amount, and at the same time contribute to the expenses of the laboratories in those studies which require work of this kind. The expense, however, is fully compensated by the economy which the students find in the dormitories and restaurants of the universities, so that they can accomplish their education at a comparatively small cost.

The basis or center of the North American universities, which gives them a special physiognomy, is the "college." The studies, which usually extend over four years, embrace those branches which furnish a general scientific education and prepare the student for a professional career. There are ordinarily two great sections—the section of science, and that of liberal arts. The latter covers those subjects which are not, properly speaking, sciences, i. e., letters, and besides, a good portion of the political

sciences. It can be said that the first two years of the college course corresponds to the last two years of our lyceums, although the studies made in the former have a greater scope; the last two years have no precise equivalent to ours; the branches of study covered in them are taken up more fully in the respective university departments (faculties of letters and sciences, law, medicine and engineering), or in special colleges or schools (agriculture, fine arts, etc.).

In many universities the field of action of the college has been broadened by creating next to it a "graduate school," where special preference is given to scientific investigations, and where studies are made on subjects taken during the four years college course. In order to enter the graduate school it is necessary to have finished the four years of college and to have obtained the degree of Bachelor of Arts (A. B.) The degree given at the end of the studies in the graduate school are those of Master of Arts (M. A.), Master of Science (M. Sc.), and the still higher degrees of Doctor of Philosophy (Ph. D.), and Doctor of Science (D. Sc.). For the rest, the difference between the college and the graduate school is not very important, in fact, the professors are generally the same and many of the courses are "for graduates and undergraduates," and others "primarily for graduates."

## II

Besides the college, the universities are divided into sections called schools, departments, and colleges, where all courses on professional subjects and liberal arts are given; that is to say, on all the subjects covered in the courses given in our universities and special schools. Thus, there are sections (schools or colleges) of law, medicine, engineering, theology, fine arts, mechanics, dentistry, commerce, journalism, etc. In order to qualify for the principal ones of these studies, it is required, especially in the universities of the East, to have gone first through the four year college course; but in other universities, one can begin these studies from the third college year, and even conjointly with the second year.

By reason of the existence of the "college," technical and professional teaching is confined to the necessary subjects peculiar to

the respective courses and therefore it makes the duration of these courses much shorter than in Latin universities. The school of law, for instance, is devoted exclusively to the teaching of the country's legislation, and the full course usually lasts three years. Only in the great universities of the East, such as Columbia and Harvard, and especially in the North Western University of Chicago, next to the professional courses, there are scientific courses of law which are not obligatory.

### III

Coeducation is another one of the features of the American universities; that is to say, they are open to students of both sexes. The attendance of women is very large, especially in the universities of the Central and Western states, the number increasing still more at the present time by reason of the war. Coeducation is carried on without any difficulty and with the greatest respect and fellowship amongst the students.

Special mention must be made, as a characteristic peculiarity of the American universities, of the community life of the students. The isolated student is unknown; he is always bound by multiple ties with his fellow students and with the educational institution which he attends. Many students live and eat in the dormitories and restaurants of the institution or in boarding houses recommended and supervised by the latter. Many of the students belong to a fraternity, and the women to a sorority: the number of these is usually very great. They have their own buildings; they are designated generally by Greek names or letters, and their membership is limited and exclusive in the sense that no one can belong to more than one fraternity at a time. There the members live and eat, have their reading rooms, and hold social receptions. Comfort is evident everywhere, coupled with strict internal regulations and absolute prohibition of liquor. Union and fellowship in these fraternities is so great that the student preserves his ties thereto even after he has left the university. There are also a great number of clubs for the most varied scientific, social or sporting purposes: history, theology, political sciences, languages, music, gymnastics, etc.

## IV

The gymnasiums, and the community life that goes with them, also occupy a prominent place in student life. At stated seasons of the year the teams of some universities hold public contests with those of others, and these tournaments are fêtes not only for the alumni, but also for the city where they take place. To come out victorious in these games is a cause of great pride and satisfaction, and in the halls of honor of the gymnasium there may be found flags, cups, and trophies which indicate so many victories obtained.

Worthy of mention are also the periodical meetings of students, once or twice a week, at the chapel, theatre, or hall of the institution. These meetings, where sometimes two or three thousand persons congregate, are rather impressive, and it is there that one feels the soul vibrations of the American youth. On these occasions a distinguished lecturer addresses the audience, and I remember with great emotion the times when I was accorded the honor of discharging such an important duty.

In addition to the several publications of the universities as such, the alumni have their own publications in charge of a committee which publishes a newspaper with information regarding the collegiate life, and tending to maintain the spirit of association among the students.

The religious spirit of the students is a very striking feature. In the private universities there are great chapels, and in some, as in that of Yale, attendance is obligatory. In the official universities, inasmuch as by the Constitution the government can favor no religion, there are no services properly speaking, but this does not prevent the students from observing their religious creeds.

The sentiment of solidarity is noticed not only among the alumni, but also among the professors who have offices in some of the buildings of the university. Here the students may consult them; and besides there is a faculty club, having reading rooms, where periodical meetings are held and where the professors may live and board. The material aspect of the American universities is highly magnificent. They are situated, ordinarily, in small cities to which they give special life and animation; the different

buildings, devoted to the college, and to professional studies, as well as to the laboratories and libraries, clubs, theatres or auditoriums, restaurants, dormitories, and to the numerous fraternities, sororities, etc., cover a large portion of ground and are located around the campus, which at certain hours of the day takes on extraordinary animation. It is here that gymnastic exercises are sometimes held and sporting games played, and at the present moment they are devoted preferentially to military drills. Sump-tuousness is evident everywhere, and located as these university-cities are in picturesque places, they have a magnificent aspect which is found lacking in the other universities of the world.

## CHAPTER III

### COMPARISON BETWEEN THE UNIVERSITIES OF THE UNITED STATES AND LATIN AMERICA

#### I

A comparison between the universities of the United States and of Latin America will disclose the fact that both have some advantages as well as disadvantages and peculiarities, which I think it is proper to consider.

Of course, on account of their organization, universal character and number (there are more than six hundred superior establishments), the universities of this great Republic play a rôle of capital importance in the intellectual development of the country and in the formation of the truly democratic spirit predominating therein. Indeed, the universities are attended by two or three hundred thousand students, men and women, rich and poor; that is to say, by those who seek only a high educational culture and those who need to earn their daily bread and who desire to acquire a profession. They all live there during the best years of their life, in close contact, receiving the same education and guided toward the same ideals; from the benches of the university they learn to consider one another as equals and to regard personal merit as the highest and most beautiful individual attainment.

The organization and the results of Latin-American universities are quite different. In spite of the fact that they are supported by the state, only an education leading to liberal professions or to a high scientific culture can be obtained therein, and this clothes them, under democratic appearances, with an aristocratic character, since only youths favored by fortune or those with independent means of subsistence can attend therein, and not the workmen or those who wish to study a profession which requires manual work. The latter go to the respective professional schools of agriculture, mining, mechanical arts, etc., which are also official institutions, but entirely independent of one another and of the universities. This organization contributes in a powerful way to accentuate the social difference between the so-called

rich and intellectual class and the working class, inasmuch as the former class is the only one that goes through the universities; the latter not having lived in contact with, nor experienced, the same educational influence does not have the same ideals or orientations.

## II

A logical result of the spirit of association existing in the universities of this country, is the profound love which students preserve for it throughout their lives. Their university is their *alma mater*. They consider it as a part of their home; they take an interest in its future and they make it their duty to show this interest in a practical way through donations of large amounts of money or buildings. The total of donations which are made both to private as well as to official universities is enormous. From 1901 to 1914 the value of these donations exceeded three hundred million dollars. This fund has also been contributed to by millionaires who have had no connection with them, amongst which rank Mr. John D. Rockefeller, who founded the University of Chicago, and then too, the great philanthropist, Mr. Andrew Carnegie, who not content with having given millions for institutions organized with the noblest aims, has given also to the universities because he believes that educational progress is one of the best means of bettering humanity.

The students not only preserve their profound love for the institution to which they have belonged, but they also continue and preserve the ties of fellowship which bind them after they leave school, especially through clubs which they organize in the great cities.

The spirit of union among the students greatly contrasts with the lack of intercourse, and we might say, with the isolation of the universities themselves. It is true that there are some partial associations, such as that of the "Eastern Universities" or the "Association of Law School Professors," but they are very far from constituting a real tie between these great centers.

The universities of Latin America are found in a very different situation under all these points of view. Although there have been great philanthropists who have founded universities and provided them at the same time with the means of subsistence,

they are usually, as we have said, supported by the state, and those who have received gratuitous education therein, even the richest, do not consider themselves bound or under obligations of any kind. They believe that the state has only complied with a duty imposed by the constitution, and the state, in its turn, does nothing to stimulate the zeal and gratitude of the former alumni. On more than one occasion the working classes have raised their voices protesting against the use of national funds to pay for the education of those who are favored by fortune, but this protest, which is really justified, has never found a sufficiently responsive echo to start a movement of opinion and provoke a reform.

As a consequence of the individual life of the students, the ties of fellowship among them, weak as they are while they remain at school, become nullified when they abandon it. There is, amongst students attending the same course, a certain degree of fellowship, but friendship is only cultivated amongst those of the same social sphere.

Finally, and in order to better bring out differences between the universities of the United States and those of Latin America, it may well be said that there is among the latter a closer contact which can be easily explained by the fact that they are all official institutions. Not only are the plans of study uniform, but the professors are promoted from less important universities to those of a higher rank, according to their merits. There have been some who have criticized this uniformity because they consider it routinary, and have praised the individualism and isolation of American universities, thinking that this is a sign of prosperity. This appreciation is superficial and unacceptable. The homogeneity would be a well-founded reason for criticism should it be only the result of routine traditional spirit; but, on the contrary, it becomes a great force, if, as is happily the case in the universities of Latin America, that unity is maintained by a progressive spirit and they are given the necessary autonomy to enable them to adopt the system of teaching which they may deem most convenient. If it is desired that the universities should fulfill in the future the great, difficult, and delicate mission which the tragicall happenings of the present time point out to them, it is necessary, as we shall see further on, that they should go hand in hand; that

they should harmonize their studies as much as possible, and should so arrange them that they may be enabled to deal successfully with the new problems which arise, and at the same time lay the foundation for a uniform public opinion.

### III

From the point of view of teaching, the contrast is no less noticeable between the universities of the two Americas.

Of course, the great variety of studies in the "college" and the multiplicity of the classics, confuse the students and prevent them from going deeply into these matters—many of which, on the other hand, are not of any great scientific or particular usefulness. The educators of this country, and especially the presidents of the universities, are the first to acknowledge that the organization of the "college" is defective and should undergo some reformation.

There being no "colleges" in Latin America and the students going from the lyceums to the professional studies, they may, at twenty-two years of age (the age at which the American student leaves "college"), acquire a liberal profession which is more advantageous than the education which may be obtained in "college."

Certain professional studies, such as engineering, agriculture, commerce, etc., are taken up in the universities of the United States under the best theoretical and practical conditions, forming professionals of great ability and competence who are familiarized with the latest discoveries and advancements of their respective callings. The excellency of the teaching in these universities draws men from all parts of Latin America. The scientific and literary courses, especially those of philosophy and psychology, are likewise taught under the best theoretical and practical conditions, having at hand the best equipped rooms, laboratories and other means of investigation of the most modern type. Certain branches of political sciences deserve unreserved praise, especially the courses in economy and history; but others, and more particularly the law courses, may be made the subject of comment and criticism on our part.

The founders of this great Republic were men of genius who proclaimed new political ideas contrary to those which at the

time prevailed in Europe, and upon those ideas they based American democracy. From that time those ideas have been considered immutable and perfect, and have served as a basis for the study of constitutional law and political science; these two branches of study have, therefore, acquired a traditional and nationalistic character, paying little or no attention to the study of similar institutions of foreign countries. There are some eminent instructors, however, who maintain the study of these sciences at a great height of efficiency, stamping it with some originality.

As a consequence of the system of legislation based on national judicial precedents, the study of law is made in this country only from these points of view. There are then no systematic juridical studies properly so-called, or studies in comparative legislation, all of these being considered generally impracticable or of no particular utility. Hence, the American lawyer, as a rule, knows only the laws of his own country and many times not even all the aspects thereof, and is even unacquainted with the workings or the main features of foreign legislation.

Another defect which we Latin-Americans notice in the teaching of law, is the aversion which both professors and students have for the study of principles and generalizations, which they consider dangerous. This defect is not inherent in the character of the Anglo-Saxon race, as is generally believed, but it is the fruit of tradition. Americans have a taste for and take interest in generalizations when these lead to practical results and are derived from positive elements of observation, especially from experience and from the lessons of history or from comparison. However, a great reaction has slowly begun: some universities have established scientific juridical courses devoted to the study of the history of local institutions and their development in the different countries. To this end the Committee of the "Association of Professors of Schools of Law of the United States" devotes all its activities. This Association is presided over by the eminent jurist, J. H. Wigmore, who has translated into English the main local works published in Europe, in order to facilitate the reform movement.

In Latin America, the study of liberal professions, fine arts, commerce and some industries is excellent. The courses of law

and political sciences are taught under an entirely different plan from that of the American universities.

As to their political organization, these countries adopted the institutions and form of government of this great Republic, but they are not sufficiently devoted to these institutions. In the study of constitutional law and of political sciences, the desire of novelty and of becoming acquainted with the natural tendencies which arise prevails amongst us, and we suffer the influence of European doctrines, especially French doctrines, many of the works which have been written thereon being familiar to us.

In private legislation, these countries suffered the influence of the French legislation as well as of French literature and system of education. By a comparative study which is often made of the national juridical institutions with those of foreign countries, by the study of Roman law, history and the philosophy of law, etc., any one who has pursued his studies in the universities of Latin America comes out with a mass of knowledge that permits him to be acquainted not only with the laws of his own country, but also with those of other countries of America and Europe which have the same juridical system of procedure.

The foregoing considerations sufficiently explain why it is that while students of Latin America come to the United States to study sciences, engineering, agriculture, mechanical arts, etc., they do not feel inclined to take up any other studies, such as medicine, law or politics, going preferably to French or German universities or even to the great Latin-American universities, especially those of Chili, to perfect their studies in such matters.

#### IV

Until a very short time ago, there was little or no importance given by the universities of the United States to the study of the language, history and institutions of Latin America, and vice versa. Latin Americans, however, knew more of this country than this country knew of ours. A short time since everything has changed, and we realize with great surprise that, at present, more consideration and study is given by American universities to the institutions and language of Latin America than in the latter to those of the United States. Ten or fifteen years ago, the history

of Latin America was taught only in one or two universities of the United States and only a very small number of students attended these courses; to-day, these courses are to be found established in almost all the universities and are attended by many students, and they are taught by professors who are as well acquainted with their subject as our own would be. This growing interest toward everything that pertains and refers to our history is furthermore manifested by the acquisition of valuable works and documents relating especially to the period of our emancipation. Yale and Harvard have set aside a considerable part of their libraries and have invested very large sums of money for this purpose; and it can be said without exaggeration, that there can be found the most complete set of documents referring to the first years of the independence of the old Spanish colonies.

The study of our language has also increased considerably during the last few years. In addition to the foregoing reasons, this increase is due to the present war which has brought about a great decrease in the study of German, formerly the favorite language of the students; Spanish and French have now taken its place, and this circumstance will exercise a powerful influence in establishing closer intellectual relations with those countries in the future. During the visits which I paid to the Spanish classes in my tour I was highly gratified to note the advancement of the students and the competence of the professors, who gladly accepted the suggestions I made to the effect that in the reading and translating exercises and in conversational practice, special preference should be given to works and themes on Latin America or relating thereto.

The Spanish clubs which exist in all the universities are the natural complement of the courses; both the daily meetings and those of more solemn character have for their purpose not only to cultivate the language but also to take particular interest in our life and institutions. They begin to show a tendency—which encouraged and suggested that they should follow frankly—toward the total federation of all of them in order to promote a closer approximation and create one more binding tie of fraternity among the countries of the continent.

## CHAPTER IV

### THE INFLUENCE OF UNIVERSITY EDUCATION ON THE PEOPLE OF THE UNITED STATES AND OF LATIN AMERICA

#### I

Should we be allowed, as a consequence of the comparison we have just made, to synthesize the influence which the universities have exerted on the mentality and character of their respective countries, we would say that the Latin-American universities turn out mainly a large number of intellectual men who are more idealistic than practical, with certain aristocratic tendencies, but with little spirit of order or of respect for the authorities, or of tolerance, or of association and private initiative: they require and expect everything from the state. The universities of the United States, on the other hand, turn out practical and truly democratic men; and order, respect for the authorities, tolerance, a spirit of independence, and private initiative are their main characteristics.

We shall try to explain these characteristics, the totality of which constitutes what might be called the character, the spirit and the soul of Anglo-American and Latin-American democracies, with all their good qualities and defects.

To prove the spirit of order, tolerance and respect for the authorities which distinguishes North Americans from Latin-Americans, it shall be sufficient to point out, amongst others, three series of facts pertaining to the religious, political, and social orders respectively.

In the United States the state has no religion and all religious creeds, even the most antagonistic, are developed in perfect tolerance, and we might even say harmony. The state respects them and they, in their turn, respect the authority of the state, and are the best element of propaganda to introduce the new laws of social import.

In Latin America we have the opposite case. The Catholic religion which is recognized by the state as the established religion

and is as a matter of fact the religion of the majority of its inhabitants, has naturally been solicitous whenever there has been an attempt to issue or to carry out laws which is considered opposed to its teachings. This condition has given rise to two extreme political parties which are in constant opposition, render parliamentary labor at times almost wholly ineffective, and in some measure hamper the freedom of action of the government, Catholic though it be. These two parties are: the Catholics, conservative or clerical, as they are generally called, and the radicals, or anticlericals, who are just the opposite. Fortunately, in the majority of these countries religious interference or intolerance has either disappeared or shown a tendency to disappear in recent years.

The political fact to which we refer is that relating to electoral campaigns. A foreigner sees with astonishment political meetings of opposing parties in the United States taking place, sometimes side by side, and those attending them behaving toward one another with the greatest consideration, without yielding to those reciprocal hostile demonstrations which are so frequent in Latin America and which so often degenerate into fights, and more than once have been the beginning of revolutionary movements in those countries where the system of military chieftains unfortunately still prevails.

But it is at the present time that that quality of order and respect for the authorities possessed by the American people to such a high degree can best be appreciated and admired. From the moment that the United States entered into the war, all the individualistic system on which the political and economic life of this country was based, has undergone great changes. The state has constantly assumed and exercised an enormous authority, taking over the direction of great enterprises of private initiative, which until now had been considered beyond the reach of the state, such as railroads, telegraph and navigation lines, industrial establishments, and even certain aspects of university life, and the production and use of food supplies. This change, so sudden and so radical, has been carried out with the unanimous consent of the people and of Congress which passed the necessary laws which gave the Executive such extraordinary powers.

In Latin America, in spite of the prevailing theory of supreme control by the state, that interference by the government would have been considered as an infraction of the fundamental laws of the country; and if such régime had been deemed necessary for the outward security and Parliament had passed laws to facilitate the action of the Executive, that régime would have always been termed dictatorial.

## II

The spirit of personal independence and private initiative is another one of the qualities which Americans possess in a high degree, and which as a heritage from the English people has been developed and strengthened by the universities of this country. The student, first at home, and later in the university, learns to owe everything to his own efforts and to shine by his own merits and not by those of his family. Our attention was particularly drawn to the interest shown by all the university students in obtaining data on Latin America and on the greater or lesser chances of earning a living there, even in the most remote and unsheltered places. Nobody is ashamed to work; they all believe themselves obliged to do so; women are as active as men, and it is astonishing to see the great number of women employees, not only in private occupations, but also in the highest public offices, such as in the Department of State, the Treasury, etc. The circumstance that women work so actively is undoubtedly one of the causes of the wealth and prosperity of this country.

The spirit of independence and personal initiative has developed individuality, which is another characteristic of the American spirit and rules its life and institutions. Individualism does not exclude association, which on the contrary it presupposes and encourages, but the intervention of the state in human activities—especially in economic life.

Almost the opposite prevails in the countries of Latin America: they have not derived or inherited from their metropolis the spirit of initiative, and university life is far from encouraging it. From the time he goes to school, the student trusts his position to the name and fortune of his parents, which he considers as his own; and such being the case, he does not think that he is obliged to work because he has his future insured. Never do the children

of rich parents—and much less women—abandon their parents' home to earn a living or create an independent position for themselves, unless extraordinary circumstances compel them to do so. The national laws of almost all these countries furthermore encourage this attitude, because the free disposal of property by will is curtailed by the system of entails.

### III

Due to the spirit of initiative and to the fact that everybody works and enjoys a relative ease, there is not in this country any marked social difference between the rich and the poor; that is to say, there are no opposite classes: the poor do not envy or hate the rich, but they all endeavor to reach the same position, and the rich, on the other hand, do not despise the poor but are ready to help them and open a road for them when they show any aptitude. Furthermore, the absence of hereditary nobility, the freedom of disposal of one's property by will, and the fact that everybody has received the same education, have permitted this country to reach (and it can indeed be proud of it) true democratic equality. With the exception of the colored race, it can be said that there is only one class of citizens, which is at the same time both a middle and high class, the most valuable and the one which constitutes the real strength of this nation.

In Latin countries there is a social separation and even antagonism between the so-called rich and intellectual class and the poor or working class. This is the logical result of ethnological differences, of the absence of individual effort, which, on the other hand, does not find many great opportunities to develop, and of the university organizations which, being confined to liberal professions, can only be attended by those who have sufficient means of subsistence. These countries, then, although democratic in their institutions, are not really so in fact; and one of the main efforts of their rulers and their universities must be to work toward the disappearance of this irritating social difference and to instill in all their citizens the spirit of equality which until now has belonged exclusively to this great Republic.

The great morality of this country, which goes as far as absolutely prohibiting drink; the religious spirit which at the same time

is highly tolerant; the respect for the sexes which permits women to work side by side with men and to live a life of fellowship with them; the absence of envy which permits everyone, according to his merits, to open a way for himself, are among the other noble characteristics of this country. The love for their country is deeply rooted in the American people; it is exempt from *chauvinism*, so frequent in Latin countries. *Chauvinism* has given rise to false patriots or politicians who seek their own celebrity, especially in parliament, and play upon the national sentiment of the masses, pointing out some imminent peril to the country every time they think it convenient to their own interest, and who often become leaders of personal parties which in poorly organized countries are the origin of revolutionary movements which drench with human blood the soil of the country.

#### IV

Between the soul of the Latin-American and that of the Anglo-American, there is a marked difference in the manner of conceiving and understanding the present and the future; that is to say, between their realism and their idealism.

The American, in spite of his desire for wealth, is not an egotist or a materialist, but an altruist and an idealist to a high degree. There is, undoubtedly, some gold bribing, but it has always been denounced and often punished. Acts of generosity on behalf of humanity or for the progress of the country are the most frequent. In no other country can be found more philanthropists, who donate millions for such noble purposes as the founding of universities, scientific centers of investigation, means to insure universal peace, and for the alleviation of those who suffer, etc.

The American Government on the other hand, although it may often have favored with excessive zeal the prosperity of its citizens abroad, in its policy, however, has been generally noble and generous. The interest it showed for maintaining the independence of its sisters in the American continent; the effective protection which during the course of this century it has given to the weak countries of Latin America against the pretensions of European countries (boundary controversies between England and Venezuela on Guiana; Anglo-Italo-German coercive action

against the same state); its policy in regard to Cuba, and above all, the reasons which induced it to take part in the present war, which have not been to seek for indemnities or territorial aggrandizement, but a better international organization, are evident proof of these qualities.

The Latin-American soul is less altruistic but more idealistic, imaginative, and cosmopolitan than that of the Anglo-American. The wealth which a Latin acquires is devoted usually to his own comfort and that of his family. The governments, in their turn, although they mould their foreign policy taking only into account the national interests, are, on the other hand, animated by a spirit of solidarity: the Pan American policy which they have developed during the last century helps them to forget the quarrels and wars which unfortunately have taken place among them.

Literature, which occupies a prominent place with the Latins, is the best proof of their imaginative sentimentality; it lends poetry to life, which is subject to objection when it is exaggerated, but considered necessary within its just limits. In that literature are symbolical expressions which arouse the masses, such as the words country, honor, glory, love, sacrifice, dignity, liberty, equality, democracy, etc. Sorrow is idealized and this, far from being a mere rhetoric, is a great force which enhances the national character; its importance has been felt in the present war: France and Belgium have astonished the world by their greatness of soul in the face of misfortune, which fact has attracted toward them the sympathy of all, and at the same time has redoubled and will redouble their energies until a complete victory is achieved.

Finally, and due greatly to the education which they respectively receive, the mentality of the Anglo-American is different from that of the Latin-American. The former is progressive in his daily life, in science, industries, etc., but he is essentially national and traditional in law and in political organization. With the Latin we have said that that traditionalism does not exist; he is more cosmopolitan and has a greater veneration for the letters and fine arts than the American. The result of the difference in legal education between the two groups of countries is shown, above all, in the diversity of conception in public and private law as well as in political and social sciences, as we have seen more in detail in the second part of this report.

## CHAPTER V

### INTELLECTUAL UNION AMONG THE UNIVERSITIES OF THE CONTINENT

#### I

The comparison which we have made in the foregoing chapters between the university organizations of the United States and those of Latin America, bring out not only the convenience but the necessity of establishing a closer intellectual union. This will facilitate a better understanding between the two groups of countries, which will prove reciprocally beneficial: the Latin-Americans may best become familiarized with, and later acquire the beautiful qualities which adorn and have made the United States a great nation, and for the latter, a more intimate contact with the mentality of the former will not prove valueless. Only thus may our continent fulfill the great mission which it is called upon to discharge after this catastrophe: to study the reconstruction of economic, political, social and international life in all its aspects as well as the new problems which may arise—especially from the American point of view.

In order to facilitate this union, it is necessary that the universities should sufficiently modify their traditional plans of study and methods of teaching as well as all the old patterns, ideas and prejudices which prevailed in the system of teaching during the course of the nineteenth century. A new and progressive spirit must animate them in order that in the future men may become real lovers of their country but without any aggressiveness or *chauvinism*, and may learn to appreciate the value of national and international organization and cooperation, so that these may be developed unhindered; and finally that a spirit may be formed capable of understanding the necessity of reconstructing social life in all its aspects and undertaking through study to facilitate progressively its practical realization.

Fully aware of the importance of a close union between the universities of our continent, some delegates of the United States, Argentine and Chile, submitted to the Second Pan American

Scientific Congress which was held in Washington December 27, 1915, to January 8, 1916, a project for a "Pan American Intellectual Union," and the delegations of Chile, Argentine, and Brazil submitted two projects, one for the creation of a "Pan American Library Union" and the other for a "Pan American University Union."

The first of the aforesaid projects was the work of Dr. James Brown Scott, the second was drawn up by Dr. Ernesto Quesada, and the third was submitted by the writer.<sup>1</sup> The Scientific Congress accepted these projects, recommending that they should be carried out. The Pan American Union, in its turn, agreed to study the best way to carry them into effect.

Now follows the text of these projects:

#### PROJECT FOR THE CREATION OF A PAN AMERICAN INTELLECTUAL UNION

The undersigned members of the Congress, having taken cognizance of the three projects presented by certain delegations looking to the formation of three inter-American unions: One of the universities, another of the libraries, and another of archaeological museums, consider that a fourth and more comprehensive one, a Pan American Intellectual Union, should, in its turn, be proposed to embrace these organizations and to include other bodies devoted to the various branches of human knowledge, and which are in harmony with the continental point of view.

The existing Pan American Union constitutes an official organization, the creature of an international treaty among the different Nations of America and governed by the combined official representatives of all of them. It is proper to say, therefore, that it is an institution essentially political. What is now proposed is an organization essentially intellectual, separate and distinct from the political and official interests of each Nation.

The projects already presented embrace three phases of this subject: The university, the library, and archaeology. But there are, of course, others, since the various branches of human knowledge—from the moral sciences to the pure and applied—assume in America continental as distinct from universal characteristics. Setting aside this latter, and considering concretely the American conception of each, it is evident that for all Americans a greater interest lies in the advance in knowledge of the continental aspect of each problem and in a combined effort to include therein the study of each new phase presenting itself. It is indispensable to our continent to approach science from the continental point of view, for there is no course of study that can be pursued

<sup>1</sup> See *Second Pan American Scientific Congress. The Final Act and Interpretative Commentary Thereon* (Washington, 1916), pp. 148, 143, and 140. These delegations also submitted a project for a "Pan American Archaeological Union" drawn up by Dr. J. D. Ambrossetti, *ibid.*, p. 145.

in the abstract and apart from regional peculiarities, which, with respect to true science, inject unique aspects, and, with respect to applied science, are usually of exclusive importance.

Thus to take an example from political economy which belongs to the group of moral sciences. This science has, in addition to its doctrinal and academic, its regional aspect. As the exponent of the actual economic activity of each human group, political economy presents, because of geographical conditions, special problems. It is therefore, both logical and necessary to take into account national and regional elements and conditions. The same may be said of all courses of scientific study, from those of the purest to those of the most applied sciences.

Why, then, should not an intellectual center be constituted which would embrace the American aspect of human knowledge, which would reach all the students of the continent, which would enable them to cooperate in a common task, and which would give a forward impulse to all America, and thus cause to disappear the isolation in which its intelligence is dissipated? But such center should not bring about a doubling of the personnel in the present Pan American Union, for the proposed union is of a wholly different character. It should seek to cultivate sentiments of intellectual cooperation and friendship among the inhabitants of the different countries and increase among these the knowledge and understanding of the various Nations of the continent. To this end a system of mutual assistance should be devised, maintained, promoted, and extended to the institutions, organizations, associations, and agencies considered necessary or useful in the fulfillment of all or any of the objects of the Union. In a word, a Pan American Intellectual Union should be organized which would be free from official participation, foreign to politics, and which would be the work of private efforts, whether by existing associations or by a confederation of the same, or by individuals, isolated or in groups.

If the Pan American Scientific Congress deems the realization of this idea desirable, it could recommend the formation of such a union to any of the existing foundations or endowments, or advise the creation of a new union, which private munificence could endow with the necessary resources. The example offered by the creation of the Carnegie Endowment for International Peace demonstrates the practicability of the idea, and it is to be hoped that private fortunes will gladly contribute to this new form of practical Pan Americanism.

The Congress might authorize the institution willing to take charge of the union, or which might be created for that purpose, to use the means and resources tending to that end, adopting the organization which in its opinion is most adequate thereto and framing regulations for its practical management.

Such a union, once established, might take into its charge the calling together and organization of the present Pan American Scientific Congress, arrange for its periodical meeting every five years, and put into practice, as subdivisions thereof, the unions referred to in the three projects presented by the delegations of Argentina, Brazil, and Chile, together with those which it might later be considered desirable to form.

For this purpose scientific institutions, associations, or societies existing or to be created in each of the American Republics should be confederated and their activities concentrated in a central organization in the capital thereof, to be further confederated with and in the Pan American Intellectual Union to be located in Washington.

The Governments of the American Republics would only be requested to name official delegates to the different periodical meetings, but without asking of those Governments any further intervention or participation of any kind.

In this way the new Pan American Intellectual Union would be an autonomous institution, dedicated solely to science, supported by its own resources, and independent of official action.

JAMES BROWN SCOTT.  
ALEJANDRO ALVAREZ.  
ERNESTO QUESADA.

#### PROJECT FOR THE CREATION OF A PAN AMERICAN LIBRARY UNION

The Chairmen of the Argentine, Brazilian, and Chilean Delegations submit for the approbation of the Congress a project for an inter-American Library Union, destined to complete, in the intellectual field, the work initiated by the present Pan American Union in the political field.

One of the principal objects of the existing Pan American Union, in fact, consists in tightening the bonds of every character that bind the divers peoples of the American continent, as well in the political, economic, and social spheres as in the intellectual. It therefore becomes essential to complement that organization by the creation of suitable agencies for putting these aims into effect in the most practical manner. With this end in view, the undersigned suggest the following:

ARTICLE I. That there be created a Pan American Library Union, to be composed of the various public libraries of America, national and university, and which shall be located and conducted in the home of the Pan American Union at Washington, where the necessary offices shall be organized.

ARTICLE II. The Pan American Library Union is to have for its object:

(a) The establishment of relations among the various libraries of America, to the end that their treasures, manuscripts as well as printed books, may be available to any investigator in any part of the continent;

(b) The establishment of the bibliography of America in the various branches of learning, in accordance with a uniform plan and the publication annually of a list of all publications issued in the several countries of the continent, with critical notes concerning the contents, respectively, of the most important works;

(c) The coordination of the systems of library economics and library science in America for the purpose of making uniform, as far as possible the classifications in all libraries and the publication of general or partial catalogues of their sections devoted to Americana;

(d) The direction of the inter-American service of exchange of publications on the basis at present established by the Pan American Conferences, thus simplifying and perfecting that service and extending it not only to official publications but to those of corporations and of private persons, destined for public, social, or individual establishment, in order thereby to make it more effectively consonant with the system employed in the Smithsonian Institution, at Washington;

(e) The establishment of an auxiliary service that will render to investigators any publication that may make its appearance anywhere in America;

(f) The direction of the publication of comparative catalogues confined to printed or manuscript books of or relating to America in order that students may familiarize themselves with the intellectual labors of the Americas;

(g) The organization of a system for the publication of critical editions of the principal American works relating to matters of special interest to the continent;

(h) The organization of a library information service, to the end that investigators may obtain therefrom information as to everything published in America, whether in the form of a book or of an article appearing in a periodical, relating to the subject of their investigations;

(i) The development of a system for the publication of reproductions of all important works of or relating to America that have become exhausted, whether *fac simile* or not, but containing critical annotations;

(j) The organization of a system for the interchange of library shelf markings, whether of official or private libraries, prepared in accordance with a uniform plan;

(k) The organization of a system for the publication of all shelf marks that have appeared in periodicals and reviews, whether old or new, of or relating to America;

(l) The organization of a system for the publication of the shelf marks of all those documents relating to America that are contained in American and European archives.

ARTICLE III. In order to achieve its ends, the Pan American Library Union shall constitute a confederation of all the libraries of the continent and shall centralize all the suggestions and requests of those libraries respecting the matters specified in the preceding article, and especially as to matters covered by paragraph (a). Thus any student who may need a work that can not be found in his local library but which may be in any other library on the continent may make a call for it at his own library, which will transmit the call to the Union at Washington and the latter will institute a direct search, from library to library, for the desired book. When received by the library to which such call is first made, the work will be promptly supplied to the person making the call for such time and under such conditions as shall be determined, the library receiving the same to be responsible for its direct return later to the library supplying it. In this way the investigator in the Americas, without changing his residence, can avail himself of the millions of books located in all the libraries on the continent.

ARTICLE IV. If the work supplied as a result of such investigation should be submitted by its author to the Pan American Library Union

with a favorable report from the local library, it could be made the object of a recommendation for its publication and circulation among all the libraries of the continent in order that it might be placed within the reach of all associations or private persons.

ARTICLE V. The Pan American Library Union shall be administered by a Council composed of delegates elected by a majority vote by each country and by the national libraries and university libraries of those countries. The delegates shall hold office for three years and may be reelected indefinitely. The Council shall meet annually in the city designated at the session of the previous year, the first meeting to be held in the city of Washington.

ARTICLE VI. The said Council shall, once in five years, organize an extraordinary meeting of a congress of libraries at which may assemble all persons who form part of the superior personnel of the libraries of the continent, whether officers of associations or private persons. Said congress shall occupy itself with questions relating to the organization and perfecting of libraries.

ARTICLE VII. The Pan American Library Union shall have a permanent Director and Secretary General, established at the seat of its offices, and they shall devote themselves to the organization and direction of the operations specified in Article II. The said functionaries shall be appointed by the Council for a term of five years and may be reelected indefinitely. In the first instance and until the Council shall have been constituted, they shall be designated by the Pan American Union.

ARTICLE VIII. The expenses incurred by the Pan American Library Union shall be covered by contributions from the respective countries on the basis of a strict equality and by donations of private persons. The Pan American Union shall be charged with the arrangement for such subsidies and the stimulation of interest in such donations as its special contribution towards the great purpose of inter-American intellectual union, which the present organization seeks to realize.

EDUARDO SUÁREZ MUJICA.  
DOMICIO DA GAMA.  
ERNESTO QUESADA.

#### PROJECT FOR THE CREATION OF A PAN AMERICAN UNIVERSITY UNION

The Chairmen of the Argentine, Brazilian, and Chilean Delegations submit for the approbation of the Congress a project for an inter-American University Union, destined to complete, in the intellectual field, the work initiated by the present Pan American Union in the political field.

The reasons underlying this project are briefly stated as follows:

The great European war is the most transcendental event recorded in the history of mankind.

If the great social upheavals, the French Revolution, the Napoleonic wars and the emancipation of the countries of the New World produced profound modifications in the political, economic, and social organization

of the States and in intellectual life, even greater changes are already making themselves felt in all those fields of activity.

A new period has begun in the history of civilization, characterized by a series of problems of every kind, universal as well as American.

On the other hand, and in the purely intellectual domain, the development of the sciences during the course of the last century has made it convincingly apparent that many doctrines should be perfected, recast, or abandoned, to give way to new ideas more in harmony with the social conditions now being established. The political and social sciences above all should be the object of most exhaustive studies and these should be submitted to rigorous criticism and scrutiny by methods appropriate to the object pursued.

In order to achieve any degree of success in opportunities of study and investigation now offered to men of science in the present epoch, the combined force of all of them is necessary, free from preconceived convictions, free from rivalries national in character, and free also from the domination of ideas or doctrines or creeds of established political parties.

A university union that would coordinate the forces of all persons charged with the formation of the mentality of the new generation is perhaps the best means of achieving harmony of views in our hemisphere.

In America it is easy to realize this intellectual union because in the realm of politics a Pan American Union is already in existence, charged with the study of certain of the great problems that interest all the States of our hemisphere. The Pan American University Union would be, in the sphere of science, the natural complement of the Pan American political union. Both should contribute to the development of the American conscience and to the creation of new and substantial bonds of union among the countries of our hemisphere, and thus enable those countries to go forward with their development under the sheltering protection of peace and fraternity, and to make impossible on this side of the world a catastrophe like that which is now desolating the most civilized peoples of the European Continent.

In conformity with these ideas, the undersigned submit for the approval of this assembly the following project:

ARTICLE I. That there be created in the United States a union of the universities of the Americas, to be known as the "Pan American University Union," devoted to the concentration and coordination of intellectual activity in all those institutions for the benefit of American progress and the diffusion of culture in the new world.

ARTICLE II. The University Union has for its object:

(a) To develop and advance the sciences, particularly in their American aspect, and to study them under a severely critical criterion of investigation and exposition unrestrained *a priori* by general systems of philosophy, politics, religion, or society.

(b) To communicate plans of work, of study, and systems of university organization for the purpose of creating a uniform American type of instruction.

(c) To determine annually the matters that may be of particular interest throughout the continent and which may properly become the

objects of joint scientific investigation, the results obtained to be communicated through the medium of professors or publications.

Special attention should be given to matters relating to the education of the American democracy, to devising better means of tightening and strengthening the solidarity of the States of the new world, to the possibility and desirability of regulating in a uniform way all or part of the organization or the legislation of the States, and to spreading the university influence in morals and the sciences throughout American Society.

(d) To hold periodical congresses that shall have for their purpose the elucidation or exposition of scientific investigations.

(e) To organize and facilitate the interchange of professors and alumni among the various continental universities.

(f) To stimulate and organize Pan American congresses of students.

(g) To create American academies, clubs, or institutes for the study and diffusion of matters that are of greatest interest to the continent.

(h) To serve as the consultative organ for the Pan American Union in matters which that institution may think it advantageous to submit for its study and report.

ARTICLE III. All of the official universities of America and the free universities recognized in the States wherein they operate shall form parts of the Union.

ARTICLE IV. The Union shall be administered by a Governing Council, to be composed of a university representative for each country. The official and free universities of each State shall choose, by election, a representative who shall serve for a term of three years and who may be reelected indefinitely.

ARTICLE V. The duties of the Governing Council are the following:

(a) To labor for the realization of the purposes specified in Article II and to adopt the most advantageous means to that end;

(b) To propose the professor or professors who are to expound the American themes, determined by the Governing Council, in the various universities;

(c) To provide appropriate means whereby the lectures of the professors or the papers especially prepared in each country, if deemed worthy of such distinction, may be printed and distributed among the different universities. Each delegate to the Council shall specify the work or paper of his country that merits publication.

ARTICLE VI. The Governing Council of the University Union shall perform its labors in the home of the Pan American Union at Washington, where it shall organize the necessary offices in order to develop scientific activity which shall be germane to and consonant with the political unity pursued by the Pan American Union. The Governing Council shall appoint, as permanent officers, a Director and a Secretary General.

ARTICLE VII. The expenses of the University Union shall be defrayed by assessments upon the different universities, by subsidies from the States, and by donations from individuals. The Pan American Union shall be charged with the collection and disbursement of the subsidies and with the stimulation of interest such donations as its special con-

tribution to the lofty efforts towards the Intellectual Pan American Union which the present organization seeks to realize.

ARTICLE VIII. Until the Governing Council shall be definitively organized as provided in Article IV the Director and Secretary General charged with the organization of the preparatory work shall be appointed by the Pan American Union.

EDUARDO SUAREZ MUJICA.  
DOMICIO DA GAMA.  
ERNESTO QUESADA.

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